Montana Code Annotated 2025

Taxation • Alcohol, Tobacco & Marijuana
State Finance • Public Contracts

VOLUME 3

MONTANA CODE ANNOTATED
Statute Text 2025

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Revenue Interim Committee, 5-5-227.
Taxation of alcoholic beverages, Title 16, ch. 1, part 4.
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Revenue anticipation notes, Title 17, ch. 1, part 2.
Tax on gross receipts from parimutuel betting, 23-4-304.
Towns and cities may tax auctioneers, 30-11-516.

Insurance premium tax, 33-2-705.
Taxation of business trusts, 35-5-205.
Fire insurance premium tax, 50-3-109.
Federal tax liens, Title 71, ch. 3, part 2.
Inheritance and estate taxes, Title 72, ch. 16.
Department of Commerce to gather information for purposes of making long-range plans on factors influencing economic enterprises, including taxes, 90-1-102.

Part 1
General Provisions

15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and

(E) all property described in 15-6-135.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The term "digital assets" means cryptocurrencies, natively electronic assets, including stable coins and nonfungible tokens, and other digital-only assets that confer economic, proprietary, or access rights or powers.

(i) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(j) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(k) "Industrial property" for purposes of this section includes all land used for industrial purposes, improvements, and buildings used to house the industrial process and all storage facilities. Under this section, industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

(l) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(m) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(n) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in subsection (1)(p), or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(o) The term "market value" means the value of property as provided in 15-8-111.

(p) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(q) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

(r) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(s) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(t) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(u) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(v) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(w) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(x) The term "taxable value" means the market value multiplied by the classification tax rate as provided for in Title 15, chapter 6, part 1.

(y) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local fees and assessments.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board", "Montana board", or "board" when used without other qualification means the Montana tax appeal board.

History: (1)En. Sec. 4, p. 74, L. 1891; re-en. Sec. 3680, Pol. C. 1895; re-en. Sec. 2501, Rev. C. 1907; re-en. Sec. 1996, R.C.M. 1921; Cal. Pol. C. Sec. 3617; re-en. Sec. 1996, R.C.M. 1935; amd. Sec. 1, Ch. 99, L. 1939; amd. Sec. 1, Ch. 296, L. 1967; amd. Sec. 1, Ch. 450, L. 1975; amd. Sec. 1, Ch. 498, L. 1977; amd. Sec. 48, Ch. 566, L. 1977; Sec. 84-101, R.C.M. 1947; (2), (3)En. Sec. 4, Ch. 3, L. 1923; re-en. Sec. 2122.4, R.C.M. 1935; amd. Sec. 48, Ch. 405, L. 1973; amd. Sec. 3, Ch. 52, L. 1977; Sec. 84-704, R.C.M. 1947; R.C.M. 1947, 84-101, 84-704; amd. Sec. 1, Ch. 39, L. 1979; amd. Sec. 14, Ch. 693, L. 1979; amd. Sec. 1, Ch. 578, L. 1981; amd. Sec. 2, Ch. 488, L. 1983; amd. Sec. 1, Ch. 632, L. 1983; amd. Sec. 1, Ch. 20, L. 1985; amd. Sec. 1, Ch. 570, L. 1985; amd. Sec. 1, Ch. 743, L. 1985; amd. Sec. 35, Ch. 370, L. 1987; amd. Sec. 1, Ch. 613, L. 1987; amd. Sec. 2, Ch. 659, L. 1987; amd. Sec. 1, Ch. 10, Sp. L. June 1989; amd. Sec. 169, Ch. 411, L. 1991; amd. Sec. 6, Ch. 680, L. 1991; amd. Sec. 1, Ch. 705, L. 1991; amd. Sec. 8, Ch. 783, L. 1991; amd. Sec. 4, Ch. 379, L. 1993; amd. Sec. 1, Ch. 417, L. 1993; amd. Sec. 32, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 206, L. 1995; amd. Sec. 1, Ch. 561, L. 1995; amd. Sec. 1, Ch. 49, L. 1997; amd. Sec. 6, Ch. 200, L. 1997; amd. Sec. 10, Ch. 285, L. 1999; amd. Sec. 2, Ch. 583, L. 1999; amd. Sec. 1, Ch. 577, L. 2003; amd. Sec. 3, Ch. 542, L. 2005; amd. Sec. 9, Ch. 596, L. 2005; amd. Sec. 4, Ch. 361, L. 2015; amd. Sec. 6, Ch. 142, L. 2021; amd. Sec. 4, Ch. 344, L. 2023.

Cross-References

Assessment of credits, 15-8-201.

Definition of school district includes community college districts, 20-15-403.

15-1-102. Person defined. As used in this title (except chapters 30 and 31), unless the context indicates otherwise, the term "person" means an individual, corporation (domestic or foreign), partnership, association, joint-stock company, or syndicate.

History: En. 84-102 by Sec. 1, Ch. 52, L. 1977; R.C.M. 1947, 84-102.

15-1-103. Disposal of tax records — procedure. (1) Notwithstanding any other provisions of law, the department may dispose of tax records more than 3 years old if the records do not have any further value or as provided in subsection (3).

(2) Authorization for disposal of tax records must be made by the director of the department or authorized employees of the department. A copy of the authorization and authenticated list of the records must be maintained by the department.

(3) The department may dispose of its original tax records after those records have been reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in 2-6-1107. The department shall maintain the reproduction as the public record. The reproduction or certified copy of the reproduction may be used in place of the department's original in any court or proceeding and has the same force and effect as the department's original record.

History: En. Sec. 1, Ch. 187, L. 1963; amd. Sec. 1, Ch. 9, L. 1969; amd. Sec. 61, Ch. 405, L. 1973; R.C.M. 1947, 84-724; amd. Sec. 2, Ch. 206, L. 2011; amd. Sec. 40, Ch. 348, L. 2015.

15-1-104. Treasurers to destroy certain tax records. The treasurer of each county, city, or town in the state of Montana may destroy all tax records in the treasurer's possession more than 30 years old.

History: En. 84-4175.2 by Sec. 2, Ch. 286, L. 1975; R.C.M. 1947, 84-4175.2; amd. Sec. 140, Ch. 56, L. 2009.

15-1-105. Repealed. Sec. 1, Ch. 151, L. 1995.

History: En. Sec. 198, p. 127, L. 1891; re-en. Sec. 4015, Pol. C. 1895; re-en. Sec. 2733, Rev. C. 1907; re-en. Sec. 2062, R.C.M. 1921; re-en. Sec. 2062, R.C.M. 1935; amd. Sec. 35, Ch. 405, L. 1973; R.C.M. 1947, 84-515; amd. Sec. 1, Ch. 581, L. 1979; amd. Sec. 2, Ch. 225, L. 1983; amd. Sec. 9, Ch. 557, L. 1987.

15-1-106. Federal tax return information. (1) Except as provided by section 6103 of the Internal Revenue Code, 26 U.S.C. 6103, and subsection (2) of this section, it is unlawful to knowingly or purposely divulge or make known in any manner any federal tax return or federal tax return information submitted on state tax returns pursuant to state law.

(2) The department shall furnish state return information to the legislative auditor, the legislative fiscal analyst pursuant to 5-12-303, and the office of budget and program planning pursuant to 17-7-111, unless the furnishing of the information requested is specifically prohibited by federal or state law. The legislative fiscal analyst and the office of budget and program planning may disclose state return information to each other. State return information

includes information on or a copy of any portion of a federal return or any information from a federal return that is required to be attached or included in a state return under state law.

(3) Income tax information held by the department, the legislative auditor, the legislative fiscal analyst, and the office of budget and program planning is solely for their official use and is not a public record.

(4) A person convicted of violating this section shall be fined not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. If a public officer or employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

History: En. Sec. 1, Ch. 70, L. 2007.

15-1-107 reserved.

15-1-108. Prohibition on sales — restrictions on certain disclosures and uses. (1) (a) Subject to subsection (1)(b), a tax return preparer may not sell, receive any consideration for, or otherwise disclose tax return information for the benefit of the tax return preparer or of any persons controlling, controlled by, or under common control of the tax return preparer.

(b) The provisions of this section do not prevent the bona fide sale of a tax return preparation, accounting, or law practice in the ordinary course of business.

(2) A tax return preparer may not disclose return information to a tax return preparer located outside of the state unless:

(a) (i) the taxpayer has requested the disclosure; or

(ii) disclosure is required in connection with an internal audit;

(b) the tax return preparer located outside of the state agrees:

(i) not to sell or receive any consideration for the tax return information; and

(ii) not to otherwise disclose the tax return information for its benefit or for the benefit of any person controlling, controlled by, or under common control with it; and

(c) the local tax return preparer indemnifies the taxpayer for the damages provided for in subsection (3)(d) for any sale or disclosure by the tax return preparer located outside the state in violation of subsection (2)(b).

(3) (a) A person whose tax return information is or will be used or disclosed in violation of subsection (1) or (2) may bring an action to enjoin the violation and for the recovery of damages.

(b) An action under this section may be brought in Montana district court in the county where the plaintiff resides or maintains its principal place of business.

(c) If the court finds that the defendant is violating or has violated any of the provisions of subsection (1) or (2), the court shall enjoin the defendant. It is not necessary to allege or prove actual damages to the plaintiff.

(d) In addition to injunctive relief, the plaintiff is entitled to recover from the defendant in an amount that is the greater of three times the amount of actual damages sustained by the plaintiff or up to $10,000.

(e) In any action brought under this section, the court may award the prevailing party reasonable attorney fees incurred in prosecuting or defending the action. A person who brings an action on the person's own behalf without an attorney may receive equivalent fees at the judge's discretion.

(4) A tax return preparer may disclose or use return information:

(a) for quality or peer reviews;

(b) when authorized to do so by Montana law;

(c) when required to do so by federal or state law; or

(d) pursuant to a court subpoena or administrative summons.

(5) As used in this section, the following definitions apply:

(a) (i) "Return information" includes a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, or any other data received by, recorded by, prepared by, furnished to, or collected by the department with respect to a return or with respect to the determination of the existence or possible existence of liability or the amount of a liability of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition or any offense.

(ii) The term does not include data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(b) "Tax return preparer" means:

(i) any person who:

(A) is engaged in the business of preparing tax returns;

(B) is engaged in the business of providing services in connection with the preparation of tax returns;

(C) prepares or assists in preparing or presents to the public that the person prepares or assists in preparing a tax return for compensation;

(D) develops software used to prepare or file tax returns; or

(E) is an electronic return originator; and

(ii) an individual who, as a part of that individual's duties or employment with a person described in subsection (5)(b)(i), performs services relating to:

(A) the preparation or filing of or the provision of services in connection with the preparation or filing of a tax return; or

(B) the development of software used to prepare or file tax returns.

History: En. Sec. 1, Ch. 447, L. 2007; amd. Sec. 4, Ch. 535, L. 2021.

15-1-109. Prohibition on tax return preparation services — filing electronic returns. The department may not provide electronic individual income tax preparation services. However, the department may provide for the filing of electronic individual income tax forms that include mathematical computations of line items on the electronic forms. The department is encouraged to increase the use of electronic tax filing. This section does not affect the department's responsibilities to provide taxpayer services under 15-1-222.

History: En. Sec. 2, Ch. 447, L. 2007.

15-1-110. Rulemaking authority. The department may adopt rules to administer and enforce the provisions of 15-1-108 and 15-1-109.

History: En. Sec. 3, Ch. 447, L. 2007.

15-1-111. Repealed. Secs. 66(2), 68(2), Ch. 422, L. 1997.

History: En. Sec. 9, Ch. 10, Sp. L. June 1989; amd. Sec. 2, Ch. 773, L. 1991; amd. Sec. 1, Ch. 499, L. 1993; amd. Sec. 33, Ch. 27, Sp. L. November 1993; amd. Sec. 9, Ch. 570, L. 1995; amd. Sec. 1, Ch. 13, Sp. L. August 2002.

15-1-112. Repealed. Sec. 1, Ch. 116, L. 2011.

History: En. Sec. 2, Ch. 570, L. 1995; amd. Sec. 25, Ch. 51, L. 1999; amd. Sec. 1, Ch. 245, L. 1999; amd. Sec. 6, Ch. 571, L. 2001; amd. Sec. 2, Ch. 13, Sp. L. August 2002.

15-1-113. Repealed. Sec. 2, Ch. 121, L. 2007.

History: En. Sec. 5, Ch. 500, L. 2001.

15-1-114 and 15-1-115 reserved.

15-1-116. Manufactured home considered as improvement to real property — requirements. (1) A manufactured home must be considered an improvement to real property for tax purposes if:

(a) the running gear is removed;

(b) the manufactured home is attached to a permanent foundation so that it is no longer capable of being drawn over public highways and it is placed on land that is owned or being purchased by the owner of the manufactured home or, if the land is owned by another person, it is placed on the land with the permission of the landowner; and

(c) a statement of intent declaring the manufactured home as an improvement to real property is recorded with the county clerk and recorder on a form furnished by the department of justice.

(2) (a) To eliminate a manufacturer's certificate of origin properly assigned to an owner or a certificate of title of a manufactured home, an owner shall record the statement of intent, as provided in subsection (3).

(b) The statement of intent must include:

(i) the serial number of the manufactured home;

(ii) the legal description of the real property to which the manufactured home has been permanently attached;

(iii) a description of any security interests in the manufactured home;

(iv) approval from all lienholders of the intent to eliminate the certificate of origin or certificate of title; and

(v) an acknowledgment of the owner's signature.

(3) (a) The owner shall record the statement of intent in the office of the county clerk and recorder of the county in which the real property is located, and the owner shall surrender the certificate of origin or certificate of title and a certified copy of the recorded statement of intent to the county treasurer. Within 10 days of receipt of the fee required in 61-3-203, the county treasurer shall:

(i) enter the transfer of interest on the electronic record of title;

(ii) issue the owner a transaction summary receipt; and

(iii) forward a certified copy of the statement of intent, a copy of the receipt for the fee required in 61-3-203, and the surrendered certificate of origin or certificate of title to the department of justice.

(b) The department of justice shall provide the owner with a statement that is in a recordable form, which the owner shall record, that the process of surrendering the certificate of origin or certificate of title has been completed.

(c) The county treasurer may not issue a receipt for the fee referred to in subsection (3)(a) unless all taxes, interest, and penalties on the manufactured home have been paid in full. The county treasurer shall remit the fee to the department for deposit in the state general fund.

(4) Upon the recording of the statement of intent and the statement of title acceptance provided for in subsection (3)(b), the manufactured home may not be physically removed without complying with the provisions of 15-1-118.

(5) If the owner of a manufactured home cannot comply with subsections (1) through (4) due to missing or removed factory installed identification tags on a manufactured home built prior to October 1, 2005, a manufactured home must be considered an improvement to real property if:

(a) the running gear is removed;

(b) the manufactured home is attached to a permanent foundation so that it is no longer capable of being drawn over public highways and it is placed on land that is owned or being purchased by the owner of the manufactured home or, if the land is owned by another person, it is placed on the land with the permission of the landowner; and

(c) a statement of intent declaring the manufactured home as an improvement of real property is recorded with the county clerk and recorder on a form furnished by the department of revenue with documentation from the department of revenue demonstrating that the manufactured home has been taxed as real property for a minimum of 1 year.

(6) A manufactured home that has been declared an improvement to real property in accordance with this section must be treated by the department and by lending institutions in the same manner as any other residence that is classified as an improvement to real property.

History: En. Sec. 2, Ch. 200, L. 1997; amd. Sec. 5, Ch. 257, L. 2001; amd. Sec. 3, Ch. 13, Sp. L. August 2002; amd. Sec. 14, Ch. 477, L. 2003; amd. Sec. 1, Ch. 450, L. 2005; amd. Sec. 1, Ch. 530, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 530, L. 2025. Amendment effective May 8, 2025.

15-1-117. Repealed. Sec. 4, Ch. 450, L. 2005.

History: En. Sec. 3, Ch. 200, L. 1997; amd. Sec. 15, Ch. 477, L. 2003.

15-1-118. Reversal of declaration that manufactured home is real property. (1) A manufactured home previously declared to be real property under the provisions of 15-1-116 must be considered as personal property for tax purposes if:

(a) the manufactured home is removed from its permanent foundation and running gear is attached so that it is capable of being moved over public highways; and

(b) the owner records a statement of reversal of declaration, on a form provided by the department of justice, with the county clerk and recorder of the county in which the manufactured home has been located and treated as real property.

(2) (a) In order to restore a certificate of title of a manufactured home, the owner shall file a statement of reversal of declaration as provided in subsection (3).

(b) The statement of reversal of declaration must include:

(i) the serial number of the manufactured home;

(ii) the legal description of the real property from which the manufactured home will be removed;

(iii) a description of any security interests in the manufactured home or real property from which it will be removed;

(iv) approval from all lienholders of the intent to restore the certificate of origin or certificate of title; and

(v) an acknowledgment of the owner's signature.

(3) (a) The statement of reversal of declaration must be presented to the county clerk and recorder of the county in which the manufactured home was treated as real property. The clerk and recorder shall forward a copy of the statement to the department of justice. The department of justice shall provide the owner with a restored certificate of origin or certificate of title.

(b) Within 5 days of receipt of the fee required in 61-3-203, the county treasurer shall:

(i) enter the transfer of interest on the electronic record of title;

(ii) issue the owner a transaction summary receipt; and

(iii) forward the statement of reversal of declaration to the department of justice.

(c) The county treasurer may not issue the transaction summary receipt unless all taxes, interest, and penalties on the real property have been paid.

(d) The department of justice shall provide to the owner a statement in recordable form, which the owner shall record, that the process of restoring the certificate of origin or certificate of title has been completed.

(4) A manufactured home may be physically removed from the real property on which it was located when it was treated as real property upon the owner's compliance with the provisions of subsections (1) through (3) and other applicable state law.

(5) A manufactured home that has been declared personal property in accordance with this section must be treated by the department and lending institutions in the same manner as any other residence that is classified as personal property.

History: **En. Sec. 2, Ch. 450, L. 2005.**

15-1-119. Classification of mobile home, manufactured home, or housetrailer — property records. A mobile home, manufactured home, or housetrailer that is considered an improvement as defined in 15-1-101 may not be identified as a mobile home in state and local property databases or through the internet unless the distinction is required for property valuation or property tax billing purposes.

History: **En. Sec. 1, Ch. 257, L. 2019.**

15-1-120. Policy and purpose. (1) The purpose of Chapter 574, Laws of 2001, is to establish a financial partnership between state and local governments.

(2) This partnership is founded on trust and is committed to protecting and promoting the financial interests of cities, towns, counties, local schools, special districts, and state government.

(3) Local governments agree to relinquish dedicated revenue in exchange for an entitlement share of the state general fund based on a formula that responds to the performance of the Montana economy.

(4) The legislature agrees to fund the entitlement share in accordance with the provisions of 15-1-121.

History: **En. Sec. 251, Ch. 574, L. 2001.**

15-1-121. *(Subsection (7)(d) effective on occurrence of contingency)* **Entitlement share payment — purpose — appropriation.** (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from

the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-9-506; and

(iv) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(h) late filing fees pursuant to 61-3-220;

(i) title and registration fees pursuant to 61-3-203;

(j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;

(l) special mobile equipment fees pursuant to 61-3-431;

(m) single movement permit fees pursuant to 61-4-310;

(n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.

(3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide accounting, budgeting, and human resource system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) The entitlement share growth rate, as described in this subsection (4), is:

(A) for fiscal year 2018, 1.005;

(B) for fiscal year 2019, 1.0187;

(C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts distributed under 15-1-123(4) for local governments, the funding provided for in subsection (8) of this section, and the amounts distributed under 15-1-123(5) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(1) and (2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(1) and (2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(3).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(3) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

[(d) The growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-124.]

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(5), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or as otherwise required by law within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction.

(d) If the department of revenue receives notice from the attorney general that a county has failed to comply with the reporting requirements of 41-3-210(3), a payment required pursuant to this section must be reduced by 2%. *(Subsection (7)(d) terminates on occurrence of contingency—sec. 31, Ch. 767, L. 2025.)*

History: En. Sec. 1, Ch. 574, L. 2001; amd. Sec. 4, Ch. 13, Sp. L. August 2002; amd. Sec. 1, Ch. 236, L. 2003; amd. Sec. 1, Ch. 252, L. 2003; amd. Sec. 4, Ch. 399, L. 2003; amd. Sec. 16, Ch. 477, L. 2003; amd. Sec. 2, Ch. 114, L. 2005; amd. Sec. 14, Ch. 130, L. 2005; amd. Sec. 2, Ch. 163, L. 2005; amd. Secs. 21, 77, Ch. 449, L. 2005; amd. Sec. 12, Ch. 596, L. 2005; amd. Sec. 1, Ch. 210, L. 2007; amd. Sec. 19, Ch. 2, L. 2009; amd. Sec. 1, Ch. 393, L. 2011; amd. Sec. 1, Ch. 411, L. 2011; amd. Sec. 1, Ch. 22, L. 2013; amd. Sec. 2, Ch. 268, L. 2013; amd. Sec. 1, Ch. 2, L. 2015; amd. Sec. 1, Ch. 403, L. 2015; amd. Sec. 1, Ch. 144, L. 2017; amd. Sec. 4, Ch. 173, L. 2017; amd. Sec. 1, Ch. 332, L. 2017; amd. Sec. 1, Ch. 2, Sp. L. November 2017; amd. Sec. 4, Ch. 3, L. 2019; amd. Sec. 3, Ch. 268, L. 2019; amd. Sec. 1, Ch. 506, L. 2021; amd. Sec. 1, Ch. 327, L. 2025; amd. Sec. 12, Ch. 767, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 1, Ch. 327, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 12, Ch. 767, L. 2025. Amendment effective on occurrence of contingency and terminates on occurrence of contingency.

The amendment to this section made by sec. 12, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Contingent Effective Date: Section 27, Ch. 767, L. 2025, provided that subsection (7)(d) regarding reimbursements under 15-1-124 is "effective on the date that the department of revenue certifies to the code commissioner that a court of final disposition finds that [section 4] [15-6-401] is invalid. The department of revenue shall submit certification within 30 days of the occurrence of the contingency."

Contingent Termination: Section 31, Ch. 767, L. 2025, provided that subsection (7)(d) regarding reimbursements under 15-1-124 terminates "on the date that the department of revenue certifies to the code commissioner that the reimbursements authorized pursuant to [section 11] [15-1-124] have been completed. The department of revenue shall submit certification within 30 days of the occurrence of the contingency."

15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of $59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and

(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) In each fiscal year, the amount of:

(a) $300,000 is transferred from the state general fund to the livestock loss mitigation restricted state special revenue account provided for in 81-1-112; and

(b) $100,000 is transferred from the state general fund to the livestock loss reduction restricted state special revenue account provided for in 81-1-113.

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.

History: En. Sec. 3, Ch. 574, L. 2001; amd. Sec. 1, Ch. 9, Sp. L. August 2002; amd. Sec. 1, Ch. 48, L. 2003; amd. Sec. 5, Ch. 399, L. 2003; amd. Sec. 17, Ch. 477, L. 2003; amd. Sec. 12, Ch. 491, L. 2003; amd. Sec. 2, Ch. 534, L. 2003; amd. Sec. 47(3)(a), Ch. 592, L. 2003; amd. Sec. 1, Ch. 601, L. 2003; amd. Sec. 15, Ch. 130, L. 2005; amd. Sec. 1, Ch. 325, L. 2005; amd. Sec. 2, Ch. 464, L. 2005; amd. Sec. 4, Ch. 542, L. 2005; amd. Sec. 131, Ch. 596, L. 2005; amd. Sec. 6, Ch. 329, L. 2007; amd. Sec. 1, Ch. 183, L. 2009; amd. Sec. 6, Ch. 486, L. 2009; amd. Sec. 5, Ch. 339, L. 2011; amd. Sec. 5, Ch. 123, L. 2013; amd. Sec. 1, Ch. 376, L. 2013; amd. Sec. 5, Ch. 347, L. 2015; amd. Sec. 3, Ch. 349, L. 2015; amd. Sec. 2, Ch. 416, L. 2015; amd. Sec. 3, Ch. 430, L. 2015; amd. Sec. 1, Ch. 360, L. 2017; amd. Sec. 1, Ch. 201, L. 2019; amd. Sec. 4, Ch. 343, L. 2019; amd. Sec. 1, Ch. 181, L. 2021.

15-1-123. Reimbursement for class eight rate reduction and exemption — distribution — appropriations. (1) Except as provided in subsection (2), for the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4), the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall reimburse each local government, as defined in 15-1-121(5), each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-109 the difference between property tax collections under 15-6-138 as amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference plus the amount calculated in subsection (2) is the annual reimbursable amount for each local government, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-109.

(2) For the increased exemption amount in 15-6-138(4) provided for in Chapter 506, Laws of 2021, and Chapter 45, Laws of 2023, the department shall reimburse each local government, as defined in 15-1-121(5), each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-109 the difference between property tax collections that would have been collected under 15-6-138 as amended by Chapter 506, Laws of 2021, and Chapter 45, Laws of 2023, and the property tax revenue that would have been collected under 15-6-138 if it had not been amended by Chapter 506, Laws of 2021. The difference calculated in this subsection is added to the annual reimbursable amount for each local government, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-109 calculated in subsection (1).

(3) The growth rate applied to the reimbursements is:

(a) for the reimbursement calculated pursuant to subsection (1), one-half of the average rate of inflation for the prior 3 years; and

(b) for the reimbursement calculated pursuant to subsection (2), 0%.

(4) The department shall distribute the reimbursements calculated in subsections (1) and (2) to local governments with the entitlement share payments under 15-1-121(7).

(5) The amount determined under subsections (1) and (2) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

(6) (a) The amount determined under subsections (1) and (2) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-109.

(b) The department of administration shall transfer the amount determined under this subsection (6) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-109.

History: En. Sec. 3, Ch. 411, L. 2011; amd. Sec. 1, Ch. 396, L. 2013; amd. Sec. 2, Ch. 332, L. 2017; amd. Sec. 2, Ch. 2, Sp. L. November 2017; amd. Sec. 5, Ch. 3, L. 2019; amd. Secs. 2, 3, Ch. 506, L. 2021; amd. Sec. 1, Ch. 45, L. 2023.

15-1-124. *(Effective on occurrence of contingency — temporary)* **Reimbursement for loss of revenue from certain fixed mill levies.** (1) The department shall reimburse each taxing entity as provided in this section for the revenue loss resulting from the tax rate reductions in 15-6-134 as amended by Chapter 767, Laws of 2025, for the following levies:

(a) levies of a local government with a charter form of government that includes a mill levy limit of a specific number of mills that may be imposed in the charter; and

(b) levies stated as a specific mill levy authorized by voters before the date that the department of revenue certifies to the code commissioner that a court of final disposition finds that 15-6-401 is invalid.

(2) (a) For fiscal year 2026, the reimbursement must be equal to the difference between the property tax revenue collected from the levies provided for in subsection (1) and the property tax revenue collected in fiscal year 2025. After fiscal year 2026, the reimbursement must be equal to the difference between the property tax revenue collected from the levies provided for in subsection (1) and the property tax revenue that would be collected in the current fiscal year using the mill levy that would raise the fiscal year 2025 tax revenue using the fiscal year 2026 taxable value.

(b) A reimbursement pursuant to this section must include any fines, penalties, or damages resulting from a judgment levy against the taxing entity in levying property taxes in accordance with 15-6-401.

(3) A taxing entity eligible to receive a reimbursement under this section shall report the loss in revenue from the tax rate reductions in 15-6-134 as amended by Chapter 767, Laws of 2025, and any amount reimbursable under subsection (2)(b) to the department of revenue.

(4) A reimbursement provided for in this section may only be made for 4 years after the date that the department of revenue certifies to the code commissioner that a court of final disposition finds that 15-6-401 is invalid.

(5) The department shall distribute the reimbursements with the entitlement share payments under 15-1-121(7). *(Terminates on occurrence of contingency—sec. 31, Ch. 767, L. 2025.)*

History: En. Sec. 11, Ch. 767, L. 2025.

Compiler's Comments

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Contingent Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective "on the date that the department of revenue certifies to the code commissioner that a court of final disposition finds that [section 4] [15-6-401] is invalid. The department of revenue shall submit certification within 30 days of the occurrence of the contingency."

Contingent Termination: Section 31, Ch. 767, L. 2025, provided that this section terminates "on the date that the department of revenue certifies to the code commissioner that the reimbursements authorized pursuant to [section 11] [15-1-124] have been completed. The department of revenue shall submit certification within 30 days of the occurrence of the contingency."

15-1-125 through 15-1-139 reserved.

15-1-140. Terminated. Sec. 18, Ch. 597, L. 2003.

History: En. Sec. 1, Ch. 597, L. 2003.

15-1-141. Repealed. Sec. 3, Ch. 550, L. 2005.

History: En. Sec. 5, Ch. 597, L. 2003.

15-1-142. Terminated. Sec. 9, Ch. 44, L. 2023.

History: En. Sec. 1, Ch. 44, L. 2023.

15-1-143. Terminated. Sec. 10, Ch. 764, L. 2023.

History: En. Sec. 2, Ch. 764, L. 2023.

15-1-144 through 15-1-149 reserved.

15-1-150. Digital assets taxation. (1) Digital assets used as a method of payment may not be subject to any additional tax, withholding, assessment, or charge by the state or a local government that is based solely on the use of the digital asset as the method of payment.

(2) Nothing in this section prohibits the state or a local government from imposing or collecting a tax, withholding, assessment, or charge otherwise authorized by Titles 15 or 16.

History: En. Sec. 2, Ch. 344, L. 2023.

Cross-References

Digital asset mining ratemaking, 69-3-332.

Right to mine digital assets, 76-2-1003.

Part 2
Department of Revenue

Part Cross-References

Property tax administration, Art. VIII, sec. 3, Mont. Const.

Equal valuation, Art. VIII, sec. 4, Mont. Const.

Director of Department of Revenue to prepare revenue estimates and continuously study fiscal problems and tax structures, 2-7-104.

Duty of public officials to supply revenue information on request, 2-7-105.

Creation of Department of Revenue — head, 2-15-1301.

Director of Department of Revenue, 2-15-1302.

Officers of municipal corporations jointly and severally liable for losses suffered through delinquency in providing information, 15-1-301.

Duties of Department — classification and appraisal of property, Title 15, ch. 7, part 1; Title 15, ch. 8.

Department authorized to request and collect federal money in lieu of taxes, Title 17, ch. 3, part 3.

Department as state debt collector, Title 17, ch. 4, part 1.

Department to approve condominium declaration, 70-23-304.

15-1-201. Administration of revenue laws. (1) (a) The department has general supervision over the administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to the end that all assessments of property are made relatively just and equal, at true value, and in substantial compliance with law. The department may make rules to supervise the administration of all revenue laws of the state and assist in their enforcement.

(b) In the administration of any tax over which it has general supervision, the department may require all individuals subject to the tax laws of the state to provide to the department the individual's social security number, federal employee identification number, or taxpayer identification number.

(c) The department may contract with the U.S. department of the interior or any other federal agency to perform federal royalty audits, collection services, and any other delegable functions related to mining operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

(d) The department may contract with the internal revenue service for tax collection services, including participation in the federal government treasury offset program and any reciprocal offset agreement program.

(e) The department shall adopt rules specifying which types of property within the several classes are considered comparable property as defined in 15-1-101.

(f) The department shall also adopt rules for determining the value-weighted mean sales assessment ratio for all commercial and industrial real property and improvements.

(2) The department shall confer with, advise, and direct officers of municipal corporations concerning their duties, with respect to taxation, under the laws of the state.

(3) The department shall collect annually from the proper officers of the municipal corporations information, in a form prescribed by the department, about the assessment of property, collection of taxes, receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly and return promptly to the department all forms and to aid the department in its work. The department shall examine the records of all municipal corporations for purposes considered necessary or helpful.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(part); (1)(b), (1)(c)En. Sec. 10, Ch. 743, L. 1985; amd. Sec. 21, Ch. 10, L. 1993; amd. Sec. 34, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 561, L. 1995; amd. Sec. 1, Ch. 314, L. 1999; amd. Sec. 4, Ch. 6, Sp. L. May 2007; amd. Sec. 1, Ch. 338, L. 2015.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Department authorized to adopt rules relating to:

payment of taxes by electronic funds transfer, 15-1-803;

realty transfer certificates, 15-7-306;

centrally assessed property, 15-23-108;

taxation of mobile homes and housetrailers, 15-24-207;

income tax, 15-30-2620;

allocation of income for purposes of corporate income tax, 15-31-313;
alternative corporate income tax, 15-31-407;
corporate income tax or alternative corporate income tax, 15-31-501;
coal severance tax, 15-35-122;
public contractors' returns, 15-50-301.
List of corporations furnished by Secretary of State, 15-31-603.

15-1-202. Enforcement of revenue laws. (1) The department may direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities, and punishment of public officials and persons or their agents for failure or neglect to comply with the provisions of the statutes, except Title 15, chapter 70, governing the revenue of the state or municipal corporations. The department shall cause complaints to be made against public officers to the proper district court for their removal from office for official misconduct or neglect of duty.

(2) The department may require county attorneys to assist in the commencement and prosecution of actions and proceedings in their respective counties for penalties, forfeitures, removals, and punishment for violations of the laws of the state in respect to the assessment of property and other revenue laws.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(6), (7); amd. Sec. 4, Ch. 623, L. 1989; amd. Sec. 22, Ch. 10, L. 1993; amd. Sec. 35, Ch. 27, Sp. L. November 1993.

Cross-References
Official misconduct, 45-7-401.

15-1-203. Study of other tax systems. The department may investigate the tax systems of other states and countries and formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(14).

15-1-204. Consultation with governor. The department shall consult and confer with the governor of the state upon the subject of taxation, the administration of the laws relating thereto, and the progress of the work of the department and furnish the governor with assistance that the governor may require.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(15); amd. Sec. 141, Ch. 56, L. 2009.

15-1-205. Biennial report — contents. (1) The department shall transmit to the governor 20 days before the meeting of the legislature and make available to the legislature and the public a report of the department showing all the taxable property of the state, counties, and cities and its value. The department shall follow the provisions of 5-11-210 in preparing the report for the legislature.

(2) The report must also include the statewide average effective tax rate of taxable property in each class of property. The department may determine whether an appropriate effective tax rate may be derived for net proceeds, gross proceeds, agricultural land, and forest land.

(3) The report or supplements to the report must also include:

(a) the gross dollar amount of revenue loss attributable to:

(i) personal income and corporate income tax exemptions;

(ii) property tax exemptions for which application to the department is necessary;

(iii) deferral of income;

(iv) credits allowed against Montana personal income tax or Montana corporate income tax, reported separately;

(v) deductions from income; and

(vi) any other identifiable preferential treatment of income or property;

(b) any change in tax revenue of the state or any unit of local government attributable to a change in federal tax law;

(c) any change in the revenue of any unit of local government attributable to a change in state tax law;

(d) the year of enactment and provision of the Montana Code Annotated granting the tax benefits in subsection (3)(a); and

(e) the number of taxpayers benefiting from each of the tax provisions listed in subsection (3)(a).

(4) A distributional analysis of the data described in subsection (3) must be related to the income level and age of the taxpayer whenever the information is available.

(5) (a) When reporting the data described in subsection (3)(a), the department shall identify any known purpose of the preferential treatment.

(b) Based upon the purpose of the preferential treatment, the department shall outline the available data necessary to determine the effectiveness of the preferential treatment.

(6) In reporting the data described in subsection (3), the department shall report any comparable data, if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the department may choose.

(7) The department shall identify in a separate section of the report any changes that have been made or that are contemplated in property appraisal or assessment.

(8) The department may include a report, prepared by the department of transportation, showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

(9) The department shall provide an internet version of the report free of charge to the public and shall charge a fee for paper copies that is commensurate with the cost of printing the report.

History: **En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(16); amd. Sec. 1, Ch. 584, L. 1979; amd. Sec. 1, Ch. 500, L. 1987; amd. Sec. 21, Ch. 112, L. 1991; amd. Sec. 23, Ch. 10, L. 1993; amd. Sec. 18, Ch. 349, L. 1993; amd. Sec. 36, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 9, L. 1995; amd. Sec. 1, Ch. 61, L. 1997; amd. Sec. 1, Ch. 199, L. 2001; amd. Sec. 1, Ch. 379, L. 2011; amd. Sec. 3, Ch. 268, L. 2013.**

Cross-References

Gasoline and special fuel tax, Title 15, ch. 70, part 4.

15-1-206. Waiver of penalties — interest. (1) The department may, in its discretion, waive, for reasonable cause, any penalty assessed by the department.

(2) Whenever the department waives a penalty provided for in this title, it also may, in its discretion, waive interest not to exceed $500 due for each tax period. When the department enters into a payment plan with a taxpayer that allows the taxpayer to make installment payments of delinquent taxes, interest, and penalties, the department may, at the conclusion of the payment plan term, agree to waive an additional $100 of interest for each tax period if the taxpayer has complied with all of the provisions of the payment plan.

History: **En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(17); amd. Sec. 1, Ch. 477, L. 1981; amd. Sec. 1, Ch. 68, L. 1999; amd. Sec. 3, Ch. 427, L. 1999; amd. Sec. 1, Ch. 594, L. 2005; amd. Sec. 1, Ch. 308, L. 2015.**

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-1-207. Writeoff of collection of tax, penalty, or interest — rules. (1) The department of revenue may write off the collection of any tax, penalty, or interest due to the state under this title when the department determines that it is not cost-effective for the department to attempt to collect the tax, penalty, or interest. The department shall establish procedures to determine the cost-effectiveness of collecting the tax, penalty, or interest. If the department writes off the collection of any tax, penalty, or interest, the department shall place in the taxpayer's file a written justification for the writeoff that includes a determination that attempted collection is not cost-effective.

(2) The department shall prescribe rules to establish the procedures to carry out the purposes of this section.

History: **En. Sec. 1, Ch. 84, L. 1991.**

15-1-208. Signature alternatives for electronically filed returns. (1) The director of revenue may accept tax returns, reports, and documents filed electronically and may prescribe, by rule, methods for signing, subscribing, or verifying electronically filed tax returns, reports, and documents for the purposes of Title 10, chapter 4, part 2, all chapters in Title 15 except chapter 70, Title 16, Title 53, chapter 19, part 3, 69-1-223, 69-1-402, and Title 70, chapter 9, part 8.

(2) The director of the department of transportation may accept tax returns, reports, and documents filed electronically and may prescribe, by rule, methods for signing, subscribing, or verifying electronically filed tax returns for the purposes of Title 15, chapter 70.

(3) Returns, reports, and documents electronically filed in accordance with this section or the methods adopted by rule have the same validity and consequences as physical forms signed by a taxpayer.

History: En. Sec. 2, Ch. 572, L. 1995; amd. Sec. 1, Ch. 6, L. 1997; Sec. 15-30-211, MCA 1995; redes. 15-1-208 by Sec. 2, Ch. 6, L. 1997; amd. Sec. 1, Ch. 27, L. 2015.

15-1-209 reserved.

15-1-210. Taxpayer right to know — centrally assessed property. (1) The department shall, in the course of valuing properties, post on its website 30 days prior to the issuance of current year assessment notices the capitalization rate or rates to be used by the department to determine the income indicators of value for centrally assessed property, including supporting information on capitalization studies. The supporting information must include the rationale for adding or deleting a company or property from those included in the study in the prior year.

(2) The department shall display a statement on its website that it will accept comments on the current year capitalization rates and information as provided in subsection (1) for 20 days after posting. The department shall consider the comments prior to issuing the current year assessment notices and shall post a response to each written comment within 20 days of the close of the comment period.

(3) The department shall include all underlying computations when providing a taxpayer with a determination of valuation.

(4) If the department changes its reliance on any indicator of value by more than 15% from the previous valuation, the department shall provide the taxpayer with a written explanation of the rationale for the change when issuing an initial or final determination of valuation to a taxpayer.

(5) Nothing in this section may be construed as affecting an appraisal judgment.

(6) Inaccuracy or inadequacy of compliance with this section does not invalidate a determination of value or provide independent grounds for appeal.

History: En. Sec. 1, Ch. 276, L. 2011; amd. Sec. 1, Ch. 424, L. 2023.

15-1-211. Uniform dispute review procedure — notice — appeal. (1) The department shall provide a uniform dispute review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 25, or whether the employment relationship was that of an independent contractor. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.

(b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities. When a case is transferred to the dispute resolution office, the parties shall attempt to attain the objectives of discovery through informal

consultation or communication. Formal discovery procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to obtain the needed information have not been successful.

(c) Once a case is transferred to the dispute resolution office, a person or entity may elect to bypass review by the dispute resolution office and receive a final department decision within 30 days of receiving the election.

(d) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual consent of the parties.

(e) If a final department decision is not issued within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

(3) (a) The department shall provide written notice to a person or other entity advising the person or entity of a dispute over matters administered by the department.

(b) The person or other entity shall have the opportunity to resolve the dispute with the department employee who is responsible for the notice, as indicated on the notice.

(c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to the dispute resolution office.

(d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the person responsible for the notice and their right to refer the dispute to the dispute resolution office.

(4) Written notice must be sent to the persons or other entities involved in a dispute with the department indicating that the matter has been referred to the dispute resolution office. The written notice must include:

(a) a summary of the department's position regarding the dispute;

(b) an explanation of the right to the resolution of the dispute with a clear description of all procedures and options available;

(c) the right to obtain a final department decision within 180 days of the date that the dispute was referred to the dispute resolution office;

(d) the right to obtain a final department decision within 30 days of the date that the department receives an election to bypass review by the dispute resolution office;

(e) the right to appeal should the department fail to meet the required deadline for issuing a final department decision; and

(f) the right to request alternative dispute resolution methods, including mediation.

(5) The department shall:

(a) develop guidelines that must be followed by employees of the department in dispute resolution matters;

(b) develop policies concerning the authority of an employee to resolve disputes; and

(c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute resolution office.

(6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with a person or other entity relating to a matter administered by the department.

(ii) The director or the director's designee has no authority to bind a future legislature through the terms of an agreement.

(b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

History: En. Sec. 1, Ch. 811, L. 1991; amd. Sec. 2, Ch. 529, L. 1995; amd. Sec. 1, Ch. 123, L. 1997; amd. Sec. 1, Ch. 36, L. 1999; amd. Sec. 2, Ch. 451, L. 1999; amd. Sec. 4, Ch. 9, Sp. L. May 2000; amd. Sec. 3, Ch. 419, L. 2013; amd. Sec. 1, Ch. 70, L. 2015; amd. Sec. 1, Ch. 102, L. 2017.

15-1-212. Mediation of valuation disputes — centrally assessed and industrial properties. (1) For appeals relating to the assessed value of centrally assessed property or industrial property that is assessed annually by the department, the objecting taxpayer

may require that all issues raised in the complaint be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of $100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the Montana tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the Montana tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the Montana tax appeal board.

(3) The mediation proceeding must be conducted pursuant to 26-1-813 as a private, confidential, and informal dispute resolution. The mediation must be conducted by a person who is not a public employee and must be held at a privately owned facility. Because the mediation proceeding cannot result in a judgment or a compelled agreement, the proceeding is not a governmental operation, and until the dispute between the taxpayer and the department is resolved, either by agreement or through the appeal process, the records of the mediation proceeding may not be disclosed to the public.

(4) Within 45 days after the request for mediation, the mediator must have been selected by the parties and the parties must have scheduled a mediation proceeding unless waived by both parties. A mediation proceeding may not proceed past 120 days without the consent of the objecting taxpayer and the department. Each party is responsible for that party's mediation costs and shall jointly share the costs of the mediator.

(5) A mediator is prohibited from conveying information from one party to another during the mediation unless the source party specifically allows the conveyance of the information.

(6) If the mediation is successful, the department shall value the property that was the subject of the objection as agreed to in the mediation.

(7) If the mediation is unsuccessful, the parties shall proceed to a contested case hearing as scheduled by the Montana tax appeal board.

History: En. Sec. 1, Ch. 419, L. 2013; amd. Sec. 7, Ch. 142, L. 2021.

15-1-213. Mediation of valuation disputes — other property taxpayers. (1) After a final decision of the county tax appeal board relating to the assessed value of property other than centrally assessed property or industrial property valued annually by the department, the objecting taxpayer may require that the assessed value be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of $100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the Montana tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the Montana tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the Montana tax appeal board.

(3) The mediation proceeding must be conducted according to 15-1-212(2) through (6).

History: En. Sec. 2, Ch. 419, L. 2013; amd. Sec. 8, Ch. 142, L. 2021.

15-1-214 and 15-1-215 reserved.

15-1-216. Uniform penalty and interest assessments for violation of tax provisions — applicability — exceptions — uniform provision for interest on overpayments. (1) A person who fails to file a required tax return or other report with the department by the due date of the return or report, including any extension of time allowed for in Title 15, chapter 30 or 31, must be assessed a late filing penalty. The penalty is the greater of $50 or 5% of the tax due for each month during which there is a failure to file the return or report, not to exceed an amount up to 25% of the tax due. The late filing penalty is calculated from the due date or extended due date until the department actually receives the late return or report. The penalty is computed only on the net amount of tax due, if any, as of the original due date or extended due date provided for in Title 15, chapter 30 or 31, after credit has been given for amounts paid through withholding, estimated tax payments, or other credits claimed on the return.

(2) (a) (i) Except as provided in subsections (2)(a)(ii), (2)(b), and (2)(d), a person who fails to pay a tax when due must be assessed a late payment penalty of 0.5% a month on the unpaid tax. The penalty may not exceed 12% of the tax due.

(ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

(A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due; or

(B) subject to the conditions of 15-30-2512(1)(a)(i), the taxpayer pays at least 90% of the tax, when due, for the current year.

(b) (i) Except as provided in subsections (2)(b)(ii) and (2)(d), a person who fails to pay a tax when due under Title 15, chapter 30, part 25, chapter 53, chapter 65, or chapter 68, or Title 53, chapter 19, part 3, must be assessed a late payment penalty of 1.5% a month on the unpaid tax. The penalty may not exceed 15% of the tax due.

(ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due.

(c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.

(d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

(3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement" means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the taxpayer reported on the return. For purposes of this subsection (3):

(i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for Title 15, chapter 30, part 33, if the understatement exceeds the greater of 10% of the amount of tax required to be shown on the return or $3,000; and

(ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15, including Title 15, chapter 30, part 33, and for Title 16, chapter 11, and Title 53, chapter 19, part 3, if the understatement exceeds the lesser of:

(A) 10% of the amount of tax required to be shown on the return if the understatement is greater than $10,000; or

(B) $500,000.

(b) The amount of substantial understatement of tax penalty must be reduced by the amount of the understatement that is attributable to:

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment; or

(ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item by the taxpayer.

(4) (a) Except as provided in subsection (4)(b), a person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return or report as required under Title 15 when due or fails to file a return or report within 60 days after receiving written notice from the department that a return or report must be filed is liable for an additional penalty of 15% of the tax due for each month or fraction of a month during which the person purposely or knowingly fails to file a return or report, but not to exceed 75% of the tax due as determined by the department. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days after receiving written notice from the department that a return or report must be filed is liable for an additional penalty of $1,000. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or report. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

(b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount paid.

(6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty imposed, for a penalty of $2,500. A frivolous return or report is one that is filed by a person and that omits information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

(7) (a) Interest on taxes not paid when due must be assessed by the department. The department shall determine the interest rate established under subsection (7)(a)(i) for each calendar year by rule subject to the conditions of this subsection (7)(a). Interest rates on taxes not paid when due for a calendar year are as follows:

(i) Beginning January 1, 2018, for individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. 6621, for the third quarter of the preceding year.

(ii) (A) For all taxes other than individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is 12% a year.

(B) Beginning July 1, 2019, the interest rate is 3 percentage points above the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans for the last business day of the third quarter of the preceding year.

(b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

(8) (a) Except as provided in subsection (8)(b), this section applies to taxes, fees, remittances, and other assessments imposed under Title 15, Title 16, and Title 53, chapter 19, part 3.

(b) This section does not apply to:

(i) property taxes; or

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70.

(9) Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in effect at the time the tax accrued.

(10) Penalty and interest must be calculated and assessed commencing with the due date of the return.

(11) Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

(12) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection (7)(a)(i).

History: En. Sec. 1, Ch. 427, L. 1999; amd. Sec. 11, Ch. 288, L. 2005; amd. Secs. 2, 3, Ch. 594, L. 2005; amd. Sec. 1, Ch. 319, L. 2007; amd. Sec. 1, Ch. 381, L. 2011; amd. Sec. 6, Ch. 123, L. 2013; amd. Sec. 2, Ch. 308, L. 2015; amd. Sec. 1, Ch. 386, L. 2017.

15-1-217. Rulemaking authority. The department shall adopt rules that are necessary to implement and administer 15-1-216.

History: En. Sec. 2, Ch. 427, L. 1999.

15-1-218. Out-of-state collections — authority to enter into contracts — statutory appropriation. The department may enter into contracts with out-of-state attorneys, other state tax agencies, the federal government, and others located outside the state for out-of-state collections of taxes, fees, and other debt owed the state when the department determines that the amount collected under a contract will likely exceed the cost of collection. The department shall deposit the gross amount collected in the account or fund to which the tax, fee, or other debt was originally owed. The costs of collection are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for the purposes of this section.

History: En. Sec. 1, Ch. 327, L. 2007; amd. Sec. 2, Ch. 338, L. 2015.

15-1-219 and 15-1-220 reserved.

15-1-221. Short title. Sections 15-1-221 through 15-1-223 may be cited as the "Montana Taxpayer Bill of Rights".

History: En. Sec. 1, Ch. 619, L. 1991.

15-1-222. Taxpayer bill of rights. The department of revenue shall in the course of performing its duties in the administration and collection of the state's taxes ensure that:

(1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department;

(2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the taxpayer's interests before the department, a county tax appeal board, or the Montana tax appeal board. The representative is not considered to be practicing law pursuant to 37-61-201 and is not required to be an attorney or a certified public accountant. The taxpayer has a right to obtain a representative at any time, except that the selection of a representative may not be used to unreasonably delay a field audit that is in progress. The representative must have written authorization from the taxpayer to receive from the department confidential information concerning the taxpayer. The department shall provide copies to the authorized representative of all information sent to the taxpayer and shall notify the authorized representative concerning contacts with the taxpayer.

(3) except as provided in subsection (5), the taxpayer has the right to be treated by the department in a similar manner as all similarly situated taxpayers regarding the administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies unless there is a rational basis for the department to distinguish them;

(4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to the waiver of penalties and interest, but not taxes, when the taxpayer has relied on written advice provided to the taxpayer by an employee of the department.

(5) at the discretion of the department, upon consideration of all facts relevant to the specific taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis. This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

(6) the taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department;

(7) the taxpayer has the right to a review by management level employees of the department for any additional taxes assessed by the department;

(8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of additional tax assessments;

(9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have the Montana tax appeal board or a court, or both, review any final decision of the department assessing an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711, and lawsuits pertaining to an appeal of the value of class four residential property in which the taxpayer substantially prevails, as provided in 15-2-306.

(10) the taxpayer has the right to expect that the department will adhere to the same tax appeal deadlines as are required of the taxpayer unless otherwise provided by law;

(11) the taxpayer has the right to a full explanation of the department's authority to collect delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

(13) the taxpayer has the right to the immediate release of any lien the department has placed on property when the tax is paid or when the lien is the result of an error by the department;

(14) the taxpayer has the right to assistance from the department in complying with state and local tax laws that the department administers; and

(15) the taxpayer has the right to be guaranteed that an employee of the department is not paid, promoted, or in any way rewarded on the basis of assessments or collections from taxpayers.

History: En. Sec. 2, Ch. 619, L. 1991; amd. Sec. 1, Ch. 376, L. 2007; amd. Sec. 1, Ch. 104, L. 2021; amd. Sec. 9, Ch. 142, L. 2021; amd. Sec. 6, Ch. 503, L. 2021; amd. Sec. 1, Ch. 691, L. 2023.

15-1-223. Office of taxpayer assistance. (1) The department of revenue shall establish and maintain an office of taxpayer assistance.

(2) The office shall assist taxpayers by:

(a) providing easily understandable tax information on audits and corrections and review procedures of the department;

(b) providing easily understandable information on appeal procedures;

(c) answering questions regarding preparing and filing of returns and reports with the department; and

(d) locating documents or payments filed with or submitted to the department.

(3) The office of taxpayer assistance shall also:

(a) receive and evaluate complaints related to improper or abusive behavior or inefficient service provided by employees of the department and recommend appropriate action to the director of the department to resolve the complaints;

(b) compile data on the number and type of taxpayer complaints received and evaluate the actions taken to resolve complaints;

(c) survey taxpayers to obtain their evaluation of the quality of service provided by the department;

(d) monitor the department's compliance with the taxpayer bill of rights and report any abuses to the director of the department;

(e) monitor the department's collection activities to:

(i) report any abuses in collection activities by the department to the director;

(ii) recommend to the director whether a particular collection activity should be stopped if the taxpayer has not had an adequate opportunity to discuss alternative means of payment; and

(f) perform any other functions that the director may assign to assist taxpayers in complying with Montana's tax laws.

(4) The department may charge a fee of $1 for processing a complaint.

History: En. Sec. 3, Ch. 619, L. 1991; amd. Sec. 2, Ch. 376, L. 2007.

15-1-224 through 15-1-229 reserved.

15-1-230. Report on income tax credit to committee. The department shall report to the revenue interim committee biennially, in accordance with 5-11-210, the number and type of taxpayers claiming the credit under 15-30-2328, the total amount of the credit claimed, the total amount of the credit recaptured, and the department's cost associated with administering the credit.

History: En. Sec. 6, Ch. 537, L. 1997; amd. Sec. 38, Ch. 19, L. 1999; amd. Sec. 1, Ch. 4, L. 2005; amd. Sec. 1, Ch. 3, L. 2015; amd. Sec. 7, Ch. 163, L. 2019.

15-1-231. Payment of taxes by credit card and other commercially acceptable means. (1) The department may accept payment of any tax that it administers, including penalties, interest, and fees, by credit card, debit card, or other commercially acceptable means.

(2) (a) If the payment is made by credit card, debit card, charge card, or similar method, the tax liability is not discharged and the person has not paid the tax until the department receives payment or credit from the financial institution or credit card company responsible for making the payment or credit and the payment or credit is not subsequently charged back to the state by the financial institution or credit card company. Upon receipt of the payment or credit, the

amount is considered paid on the date on which the charge was made by the taxpayer, unless the payment or credit is subsequently charged back to the state by the financial institution or credit card company.

(b) Upon notice of nonpayment, the department may charge the person who attempted the payment of the tax a fee not to exceed the costs of processing the claim for payment of the tax. The amount of the fee must be added to the tax due and is collected in the same manner as the tax due.

(3) The taxpayer shall pay all fees required by a financial institution or credit card company for a payment made pursuant to this section.

History: En. Sec. 1, Ch. 50, L. 2001; amd. Sec. 1, Ch. 47, L. 2005.

15-1-232. Deposit of money. Money received by the department from the collection of taxes, fees, and debts is subject to the timely deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

History: En. Sec. 1, Ch. 51, L. 2003; amd. Sec. 1, Ch. 420, L. 2007.

15-1-233. Electronic taxpayer communications — rulemaking. (1) Except as otherwise provided by law, the department may send correspondence, letters, notices, and other communications electronically to a taxpayer when the taxpayer elects, on a form provided by the department, to receive electronic communications from the department.

(2) The department shall adopt rules necessary to administer this section.

History: En. Sec. 1, Ch. 80, L. 2025.

Compiler's Comments

Effective Date: Section 3, Ch. 80, L. 2025, provided: "[This act] is effective on passage and approval." Approved April 7, 2025.

Part 3
Investigation and Hearings

15-1-301. Investigations by department. (1) The department of revenue may examine all cases where evasion or violation of the laws for taxation of property, proceeds, occupation, or business is alleged, complained of, or discovered and ascertain wherein existing laws are ineffective or are improperly or negligently administered.

(2) (a) The department may inspect and examine or cause an inspection and examination of the records of the officers of any municipality whenever such officer has failed, neglected, or refused to return properly the information required by 15-1-201 within the time set by the department. Upon completion of such inspection and examination, the department shall transmit to the clerk or other proper official of the municipality a statement of the expenses incurred by the department to secure the necessary information. Within 60 days after the receipt by the municipality of the above statement, the same shall be audited as other claims of the municipal corporation are audited and shall be paid into the state treasury. If the statement is not paid, the attorney general shall institute an action in the proper court against the municipality to recover the same.

(b) The officers responsible for the furnishing of the information collected pursuant to 15-1-201 shall be jointly and severally liable for any loss the municipality may suffer through their delinquency. No payment may be made to them for salary or on any other account until the cost of such inspection and examination as provided above has been paid into the treasury or to the proper officers of such municipality. They shall also be subject to the other fines and penalties as prescribed by law.

(3) The department may require persons to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes, and all other facts which may enable the department to ascertain the value of the relative burdens borne by all kinds of property and occupations in the state.

(4) The department may summon witnesses to appear and give evidence and to produce records, books, papers, and documents relating to any matter which the department has authority to investigate and determine.

(5) In any matter which the department has authority to investigate and determine, it may cause the deposition of witnesses residing within or without the state or absent therefrom to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the district court.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(9) thru (13).

15-1-302. Witnesses — oaths, contempt, and fees. (1) Oaths to witnesses in any investigation by the department may be administered by the director of revenue or the director's agent.

(2) (a) If a witness fails to obey a summons to appear before the department or refuses to testify or answer any material question or to produce records, books, papers, or documents when required to do so, the department shall institute proceedings in the district court to compel obedience to a summons or order of the board or to punish the witness for neglect or refusal to obey the summons.

(b) As required by 15-30-2509, the department, in addition to instituting proceedings to compel obedience to a summons or order shall, as a part of the proceedings, request the court to issue an order requiring the payment of all penalties assessed for the employer's failure to report.

(3) A person who testifies falsely in any material matter under consideration by the department is guilty of perjury and shall be punished accordingly.

(4) Witnesses attending an investigation by the department must receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the department.

History: En. Sec. 16, Ch. 3, L. 1923; re-en. Sec. 2122.16, R.C.M. 1935; amd. Sec. 59, Ch. 405, L. 1973; R.C.M. 1947, 84-716; amd. Sec. 8, Ch. 491, L. 1997.

Cross-References

Subpoena of person for failure to file report on centrally assessed property, 15-23-104.

Witness fees, Title 26, ch. 2, part 5.

15-1-303. Penalty for refusal to furnish information. (1) If a person refuses to allow inspection of any books or records when requested by the department or refuses or neglects to furnish any information called for by the department in the performance of its official duties relating to the assessment and taxation of property, the department shall make a determination and assessment of the property that in its judgment appears to be just and equitable and may add to the assessment an amount not to exceed 20% of the assessment as a penalty for the refusal or neglect. The department shall immediately notify the person assessed of its action, either by mail or by personal service of the notice.

(2) Upon receiving an assessment made pursuant to subsection (1), the taxpayer has the following remedies:

(a) Within 30 days after receipt of the assessment, the taxpayer may request an informal conference with the department. At the conference, the taxpayer may present evidence in mitigation or extenuation of the failure to supply the information requested by the department. Within 10 days after the conference, the department shall notify the taxpayer by mail whether the assessment will be modified. The department may modify the penalty if the taxpayer presents sufficient evidence in mitigation or extenuation of the failure to supply the information sought by the department and if it finds that the taxpayer did not willfully refuse to supply the information.

(b) If the taxpayer is aggrieved as a result of the informal conference, the taxpayer may appeal to the county tax appeal board within 30 days after receipt of the decision of the department. The county tax appeal board has the authority to modify the:

(i) assessment only if it finds that the assessment exceeds 100% of the value of the property specified in 15-8-111; and

(ii) penalty if the taxpayer presents by a preponderance of the evidence facts in mitigation or extenuation of the failure to supply the information that the department sought.

(c) If the county tax appeal board modifies a penalty pursuant to subsection (2)(b)(ii), it may not reduce the penalty to less than 20% of the assessment or, if the assessment is modified pursuant to subsection (2)(b)(i), to less than 20% of the modified assessment.

(3) Either party aggrieved as a result of the decision of the county tax appeal board may appeal to the Montana tax appeal board within 30 calendar days after receipt of the county tax appeal board's decision. When deciding an appeal brought under this subsection, the Montana tax appeal board shall follow the provisions of subsections (2)(b) and (2)(c).

(4) Either party aggrieved as a result of the decision of the Montana tax appeal board may seek judicial review pursuant to 15-2-303.

History: En. Sec. 14, Ch. 3, L. 1923; re-en. Sec. 2122.14, R.C.M. 1935; amd. Sec. 58, Ch. 405, L. 1973; R.C.M. 1947, 84-714; amd. Sec. 1, Ch. 357, L. 1985; amd. Sec. 1, Ch. 227, L. 1993; amd. Sec. 37, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 35, L. 1997; amd. Sec. 1, Ch. 36, L. 1997; amd. Sec. 10, Ch. 142, L. 2021.

Cross-References

Estimating value of centrally assessed property on failure to file report, 15-23-104.

Part 4
Protest Payments, Actions to Recover, and Alternative Remedies

Part Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.

Judgment to be against Treasurer in suit to recover taxes paid under protest when funds held by Treasurer, 15-8-115.

Refund of taxes illegally refunded — concurrent remedy, 15-16-602.

Costs allowed in action involving legality of any tax, 25-10-101, 25-10-102.

Justice's Court without jurisdiction to hear tax issues, 25-31-101.

15-1-401. Repealed. Sec. 7, Ch. 501, L. 1981.

History: En. Sec. 1, Ch. 188, L. 1921; re-en. Sec. 2409, R.C.M. 1921; re-en. Sec. 2409, R.C.M. 1935; amd. Sec. 1, Ch. 197, L. 1955; amd. Sec. 3, Ch. 126, L. 1963; R.C.M. 1947, 84-4501; amd. Sec. 2, Ch. 581, L. 1979; amd. Sec. 5, Ch. 463, L. 1981.

15-1-402. *(Temporary)* **Payment of property taxes or fees under protest.** (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101, shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the Montana tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to

the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iv).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.

(6) (a) If action before the county tax appeal board, Montana tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under

protest. The department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the school district has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue fund is insufficient to refund the property tax payments, the department shall pay the remainder of the refund from the state general fund.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) (A) If, after a final determination by the Montana tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value.

(B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive its right to its portion of protested taxes for that specific year, the department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer.

(C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property.

(ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to

procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of $5 or less, a refund is not owed.

15-1-402. *(Effective July 1, 2026)* **Payment of property taxes or fees under protest.** (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101, shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the Montana tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iii).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(5) (a) Except as provided in subsection (5)(b), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from

demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(6) (a) If action before the county tax appeal board, Montana tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) (A) If, after a final determination by the Montana tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value.

(B) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property.

(ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of $5 or less, a refund is not owed.

History: En. 4024, Pol. C. 1895; amd. Sec. 1, Ch. 108, L. 1905; re-en. Sec. 2742, Rev. C. 1907; amd. Sec. 1, Ch. 135, L. 1909; re-en. Sec. 2269, R.C.M. 1921; amd. Sec. 1, Ch. 142, L. 1925; re-en. Sec. 2269, R.C.M. 1935; amd. Sec. 1, Ch. 204, L. 1955; amd. Sec. 151, Ch. 516, L. 1973; amd. Sec. 1, Ch. 348, L. 1977; amd. Sec. 1, Ch. 394, L. 1977; R.C.M. 1947, 84-4502; amd. Sec. 1, Ch. 281, L. 1979; amd. Sec. 1, Ch. 680, L. 1979; amd. Sec. 6, Ch. 463, L. 1981; amd. Sec. 4, Ch. 501, L. 1981; amd. Sec. 1, Ch. 26, Sp. L. June 1986; amd. Sec. 1, Ch. 213, L. 1989; amd. Sec. 1, Ch. 594, L. 1993; amd. Sec. 1, Ch. 448, L. 1999; amd. Sec. 80, Ch. 584, L. 1999; amd. Sec. 92, Ch. 574, L. 2001; amd. Sec. 1, Ch. 511, L. 2003; amd. Sec. 1, Ch. 536, L. 2005; amd. Sec. 2, Ch. 57, L. 2009; amd. Sec. 2, Ch. 344, L. 2009; amd. Sec. 1, Ch. 261, L. 2011; amd. Sec. 4, Ch. 419, L. 2013; amd. Sec. 6, Ch. 3, L. 2019; amd. Sec. 1, Ch. 452, L. 2019; amd. Sec. 11, Ch. 142, L. 2021; amd. Sec. 2, Ch. 424, L. 2023; amd. Sec. 2, Ch. 424, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 424, L. 2025. Amendment effective July 1, 2026.

Applicability: Section 31, Ch. 424, L. 2025, provided: "[This act] applies to fiscal years beginning on or after July 1, 2026."

Cross-References

Section applicable to taxes levied to meet bond obligations and expenses of county water/sewer districts, 7-13-2308.

Payment of assessment for forest protection under protest, 76-13-210.

15-1-403. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 1, Ch. 108, L. 1905; re-en. Sec. 2743, Rev. C. 1907; amd. Sec. 2, Ch. 135, L. 1909; re-en. Sec. 2270, R.C.M. 1921; amd. Sec. 1, Ch. 142, L. 1925; re-en. Sec. 2270, R.C.M. 1935; amd. Sec. 85, Ch. 405, L. 1973; R.C.M. 1947, 84-4503; amd. Sec. 5, Ch. 501, L. 1981; amd. Sec. 2, Ch. 811, L. 1991.

15-1-404. Other remedies superseded. The remedies hereby provided shall supersede the remedy of injunction and all other remedies which might be invoked to prevent the collection of taxes or licenses alleged to be irregularly levied or demanded, except in unusual cases where the remedies hereby provided are deemed by the court to be inadequate.

History: En. Sec. 4026, Pol. C. 1895; re-en. Sec. 2745, Rev. C. 1907; re-en. Sec. 2272, R.C.M. 1921; re-en. Sec. 2272, R.C.M. 1935; R.C.M. 1947, 84-4504; amd. Sec. 7, Ch. 463, L. 1981.

15-1-405. Injunction not to be used to restrain enforcement of tax. No injunction must be granted by any court or judge to restrain the collection of any tax or any part thereof or to restrain the sale of any property for the nonpayment of taxes except:

(1) where the tax or the part thereof sought to be enjoined is illegal or is not authorized by law. If the payment of a part of a tax is sought to be enjoined, the other part must be paid before an action can be commenced.

(2) where the property is exempt from taxation.

History: En. Sec. 204, p. 128, L. 1891; re-en. Sec. 4023, Pol. C. 1895; re-en. Sec. 2741, Rev. C. 1907; re-en. Sec. 2268, R.C.M. 1921; re-en. Sec. 2268, R.C.M. 1935; R.C.M. 1947, 84-4505.

15-1-406. Declaratory judgment. (1) An aggrieved taxpayer may bring a declaratory judgment action in the district court seeking a declaration that:

(a) an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the department is illegal or improper; or

(b) a tax authorized by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the date the notice of the tax due was sent to the taxpayer or, in the case of an assessment covered by the uniform dispute review procedure set forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall consolidate all actions brought under subsection (1) that challenge the same tax. The decision of the court applies to all similarly situated taxpayers, except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid under protest when due as a condition of continuing the action. Property taxes are paid under protest as provided in 15-1-402. All other taxes administered by the department, except estate taxes, are paid under protest by filing timely claims for refund and by following the uniform dispute review procedures of 15-1-211. Estate taxes are paid under protest by following the procedures set forth in Title 72.

(4) The remedy authorized by this section may not be used to challenge the:

(a) market value of property under a property tax unless the challenge is to the legality of a particular methodology that is being applied to similarly situated taxpayers; or

(b) legality of a tax other than a property tax or estate tax unless the review pursuant to 15-1-211 has been completed.

(5) The remedy authorized by this section is the exclusive method of obtaining a declaratory judgment concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506.

History: En. Secs. 1, 4, Ch. 463, L. 1981; amd. Sec. 3, Ch. 811, L. 1991; amd. Sec. 1, Ch. 21, L. 1993; amd. Sec. 2, Ch. 594, L. 1993; amd. Sec. 1, Ch. 348, L. 1995; amd. Sec. 2, Ch. 36, L. 1999; amd. Sec. 5, Ch. 9, Sp. L. May 2000.

15-1-407. Alternative remedy — procedure. (1) Except as provided in subsection (2), an action pursuant to 15-1-406 is subject to the provisions of Title 27, chapter 8.

(2) In lieu of the requirement of 27-8-301, a party bringing an action under 15-1-406 may elect to use:

(a) the procedures available under the Montana Rules of Civil Procedure for bringing a class action, Title 25, chapter 20, rule 23. This includes the requirement that to be a member of the class, a taxpayer must be similarly situated to the representative class member and must have paid the tax under protest as provided in 15-1-406(3).

(b) the procedure provided for in subsection (3).

(3) (a) A party bringing an action under 15-1-406 may elect to give notice as provided in this subsection. A party so electing shall publish notice that an action has been brought. The notice must be published at least once each week for 4 consecutive weeks in a newspaper of general circulation published in the county where the action is commenced and in other counties within the jurisdiction of the taxing authority. The notice must advise each similarly situated taxpayer that:

(i) the court will exclude the taxpayer from the class if the taxpayer so requests by a specific date;

(ii) the judgment, whether favorable or not, will include all similarly situated taxpayers who do not request to be excluded; and

(iii) any similarly situated taxpayer who does not request exclusion may, if the taxpayer desires, enter an appearance.

(b) The court shall exclude a taxpayer from an action brought pursuant to 15-1-406 if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice.

(c) An election to give notice under subsection (3) does not prevent any party to the action from serving process on other interested parties.

(d) This section governs alternative notice. This section does not alter the requirement under Rule 23, Montana Rules of Civil Procedure, that to be a member of the class, a taxpayer must have paid the tax under protest as provided in 15-1-406(3).

(4) In a proceeding under 15-1-406 all issues must be tried by the court.

History: En. Sec. 2, Ch. 463, L. 1981; amd. Sec. 2, Ch. 348, L. 1995.

15-1-408. Alternative remedy — judgment. If the district court determines that the tax was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax, the judgment may direct:

(1) that the revenue collected under the illegal tax be directly refunded to the taxpayers who have paid the illegal tax and who have not been excluded from the action;

(2) that the revenue collected under the illegal tax be used to reduce a similar levy in the ensuing tax year;

(3) that the assessment be changed for the taxpayer or taxpayers who brought the action as well as for all similarly situated taxpayers; or

(4) any other remedy as the court considers appropriate.

History: En. Sec. 3, Ch. 463, L. 1981; amd. Sec. 3, Ch. 594, L. 1993.

15-1-409. *(Temporary)* Exclusion of certain property subject to property tax protest — guaranteed tax base — tax refund. (1) A school district that has centrally assessed property subject to pending property tax protests shall, prior to February 1 of each year, elect whether to waive the school district's right to receive its portion of protested taxes under 15-1-402(5)(b) for the previous year.

(2) If the school district elects to waive its right to its portion of the protested taxes under subsection (1), the district's guaranteed tax base aid calculated under 20-9-366 must be determined based on the total taxable value of property in the school district less the taxable value of the centrally assessed property for which a school district waived its right to receive its portion of protested taxes. Upon settlement or other resolution of the protest, the department is responsible for refunding protested taxes or paying any other costs due the protesting taxpayer and retaining any portion of protested taxes that would have been distributed to the school district for each year the school district has elected to waive receiving its portion of the protested taxes.

(3) For the purpose of this section, "centrally assessed property" means property that is centrally assessed pursuant to 15-23-101 and industrial property that is assessed annually by the department. *(Repealed effective July 1, 2026—sec. 24, Ch. 424, L. 2025, sec. 29, Ch. 424, L. 2025.)*

History: En. Sec. 1, Ch. 344, L. 2009; amd. Sec. 2, Ch. 261, L. 2011.

15-1-410 through 15-1-420 reserved.

15-1-421. Payment of taxes by negotiable instrument. The department of revenue is not bound by a special, qualified, conditional, or restrictive endorsement placed on a negotiable instrument by the maker or drawer, tendered to the department for the payment of a tax liability, unless:

(1) the taxpayer and the department have previously entered into a written agreement that specifies the amount of the taxpayer's liability; and

(2) the amount tendered is in accordance with the written agreement.

History: En. Sec. 1, Ch. 17, L. 1989.

Cross-References

U.C.C. — restrictive endorsements, 30-3-205.

Part 5
Disposition of Tax Proceeds

Part Cross-References

Tax purposes, Art. VIII, sec. 1, Mont. Const.

15-1-501. Repealed. Sec. 27, Ch. 475, L. 2007.

History: En. Sec. 1, Ch. 14, L. 1941; amd. Sec. 51, Ch. 147, L. 1963; amd. Sec. 6, Ch. 276, L. 1965; amd. Sec. 51, Ch. 100, L. 1973; amd. Sec. 1, Ch. 300, L. 1975; R.C.M. 1947, 84-1901(part); amd. Sec. 9, Ch. 634, L. 1979; amd. Sec. 2, Ch. 700, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 4, Ch. 619, L. 1983; amd. Sec. 1, Ch. 707, L. 1983; amd. Sec. 4, Ch. 277, L. 1985; amd. Sec. 2, Ch. 611, L. 1987; amd. Sec. 1, Ch. 666, L. 1987; amd. Sec. 64, Ch. 11, Sp. L. June 1989; amd. Sec. 1, Ch. 626, L. 1991; amd. Secs. 47, 55, Ch. 767, L. 1991; amd. Sec. 1, Ch. 455, L. 1993; amd. Sec. 7, Ch. 593, L. 1993; amd. Sec. 10, Ch. 18, L. 1995; amd. Sec. 27, Ch. 451, L. 1995; amd. Sec. 12, Ch. 48, L. 1997; amd. Sec. 68, Ch. 382, L. 1997; amd. Sec. 7, Ch. 422, L. 1997; amd. Sec. 7, Ch. 466, L. 1997; amd. Sec. 31, Ch. 426, L. 1999; amd. Sec. 6, Ch. 9, Sp. L. May 2000; amd. Sec. 15, Ch. 7, L. 2001; amd. Sec. 1, Ch. 306, L. 2001; amd. Sec. 1, Ch. 448, L. 2001; amd. Sec. 93, Ch. 574, L. 2001; amd. Sec. 1, Ch. 521, L. 2003; amd. Sec. 4, Ch. 522, L. 2003; amd. Sec. 2, Ch. 597, L. 2003; amd. Sec. 1, Ch. 163, L. 2005; amd. Sec. 6, Ch. 428, L. 2005; amd. Sec. 1, Ch. 550, L. 2005.

15-1-502. Repealed. Sec. 34, Ch. 455, L. 1993.

History: En. Sec. 1, Ch. 126, L. 1963; amd. Sec. 14, Ch. 516, L. 1973; R.C.M. 1947, 84-725.

15-1-503. Refund of overpayment — procedure. (1) When there has been an overpayment of the estate tax collected by county treasurers or any other tax collected by the department and there is no law providing for a refund, the department shall refund the amount of the overpayment to the taxpayer, plus any interest and penalty due the taxpayer, as provided in subsection (2).

(2) A refund or payment is not allowed unless a claim is filed by the taxpayer before the expiration of 5 years from the time that the tax was paid. Within 6 months after the claim is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and shall grant a hearing on the claim. If the department disapproves a claim after holding a hearing, the determination of the department may be reviewed as provided by 15-30-2608.

History: En. Sec. 2, Ch. 126, L. 1963; amd. Sec. 15, Ch. 516, L. 1973; R.C.M. 1947, 84-726; amd. Sec. 7, Ch. 9, Sp. L. May 2000.

Cross-References

Inheritance tax, Title 72, ch. 16.

15-1-504. Settlement of county treasurer with department. (1) Except as provided in subsections (2) and (3), the county treasurer, between the 1st and 20th days of each month, shall remit to the department all money belonging to the state that was collected by the county treasurer during the preceding month. The remittance must be accompanied by a detailed report upon a form that the department prescribes. The department may assess counties an interest charge of 10% a year on all money not remitted within 5 days from the time required by this section.

(2) By June 20 of each year, the county treasurer shall remit to the department an estimate of all money belonging to the state that was collected by the county treasurer by June 15, in addition to the amount collected during the preceding month. By July 15, the county treasurer shall remit all money belonging to the state that was collected by the county treasurer during the remainder of June.

(3) Beginning July 1, 2006, the county treasurer shall remit to the department of justice by the 20th of each month all state money that was collected by the county treasurer due to motor vehicle, vessel, and snowmobile transactions during the preceding month. The remittance must be accompanied by a detailed report upon a form prescribed by the department of justice. The department may assess counties an interest charge, at the rate of 10% a year, on all money that is not remitted by the prescribed time.

History: En. Sec. 3990, Pol. C. 1895; re-en. Sec. 2715, Rev. C. 1907; re-en. Sec. 2255, R.C.M. 1921; Cal. Pol. C. Sec. 3865; amd. Sec. 1, Ch. 47, L. 1925; re-en. Sec. 2255, R.C.M. 1935; R.C.M. 1947, 84-4401; amd. Sec. 1, Ch. 72, L. 1991; amd. Sec. 1, Ch. 4, Sp. L. July 1992; amd. Sec. 1, Ch. 102, L. 1993; amd. Sec. 6, Ch. 257, L. 2001; amd. Sec. 5, Ch. 542, L. 2005.

15-1-505. Repealed. Sec. 36, Ch. 451, L. 1993.

History: En. Sec. 3992, Pol. C. 1895; re-en. Sec. 2717, Rev. C. 1907; re-en. Sec. 2257, R.C.M. 1921; Cal. Pol. C. Sec. 3868; amd. Sec. 2, Ch. 47, L. 1925; re-en. Sec. 2257, R.C.M. 1935; R.C.M. 1947, 84-4402.

15-1-506. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 199, p. 128, L. 1891; re-en. Sec. 4016, Pol. C. 1895; re-en. Sec. 2734, Rev. C. 1907; re-en. Sec. 2042, R.C.M. 1921; re-en. Sec. 2042, R.C.M. 1935; amd. Sec. 21, Ch. 405, L. 1973; R.C.M. 1947, 84-448.

15-1-507 through 15-1-515 reserved.

15-1-516. Terminated. Sec. 39(2), Ch. 15, Sp. L. July 1992.

History: En. Sec. 4, Ch. 15, Sp. L. July 1992.

15-1-517 through 15-1-520 reserved.

15-1-521. Property valuation improvement fund. There is an account in the state special revenue fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and taxation process through improvements in technology and administration. The department shall deposit fees collected pursuant to 2-6-1007 in the account.

History: En. Sec. 2, Ch. 27, Sp. L. November 1993; amd. Sec. 55, Ch. 42, L. 1997; amd. Sec. 41, Ch. 348, L. 2015.

Part 6
Multistate Tax Compact

Part Cross-References
Advisory Council for Multistate Tax Compact, 2-15-1311.

15-1-601. Compact adopted — text. The Multistate Tax Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth in this section. Article VIII of the Multistate Tax Compact relating to interstate audits is specifically adopted.

ARTICLE I
PURPOSES

The purposes of this compact are to:

(1) facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes;

(2) promote uniformity or compatibility in significant components of tax systems;

(3) facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration;

(4) avoid duplicative taxation.

ARTICLE II
DEFINITIONS

As used in this compact:

(1) "capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety;

(2) "gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax;

(3) "income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions;

(4) "sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller or which is customarily separately stated from the sales price but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles;

(5) "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(6) "subdivision" means any government unit or special district of a state;

(7) "tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

(8) "taxpayer" means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity in more than one state;

(9) "use tax" means a nonrecurring tax, other than a sales tax, which:

(a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property; and

(b) is complementary to a sales tax.

ARTICLE III
ELEMENTS OF INCOME TAX LAWS

Taxpayer Option, State and Local Taxes

(1) Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate the taxpayer's income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this subsection, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option, Short Form

(2) Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of $100,000 may elect to report and pay any tax due on the basis of a percentage of such volume and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in 5 years, may adjust the $100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the $100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this subsection.

Coverage

(3) Nothing in this article relates to the reporting or payment of any tax other than an income tax.

ARTICLE IV
DIVISION OF INCOME

(1) As used in this article, unless the context otherwise requires:

(a) "apportionable income" means:

(i) all income that is apportionable under the Constitution of the United States and is not allocated under the laws of this state, including:

(A) income arising from transactions and activity in the regular course of the taxpayer's trade or business, and

(B) income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; and

(ii) any income that would be allocable to this state under the Constitution of the United States but that is apportioned rather than allocated pursuant to the laws of this state;

(b) "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;

(c) "financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company;

(d) "nonapportionable income" means all income other than apportionable income;

(e) "public utility" means any business entity:

(i) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water, or steam; and

(ii) whose rates of charges for goods or services have been established or approved by a federal, state, or local government or governmental agency;

(f) "receipts" means all gross receipts of the taxpayer that are not allocated under paragraphs of this article and that are received from transactions and activity in the regular course of the taxpayer's trade or business, except that receipts of a taxpayer from hedging transactions and from the maturity, redemption, sale, exchange, loan, or other disposition of cash or securities shall be excluded;

(g) "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(h) "this state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

(2) Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion the taxpayer's net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of the taxpayer's income from activities subject to this article, the taxpayer may elect to allocate and apportion the taxpayer's entire net income as provided in this article.

(3) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(a) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not do so.

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonapportionable income, shall be allocated as provided in subsections (5) through (8) of this article.

(5) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(6) (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(7) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(8) (a) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(9) All apportionable income shall be apportioned to this state by multiplying the income by the receipts factor.

(10) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period and the denominator of which is the total receipts of the taxpayer everywhere during the tax period.

(11) Receipts from the sale of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:

(i) the purchaser is the United States government; or

(ii) the taxpayer is not taxable in the state of the purchaser.

(12) (a) Receipts, other than receipts described in subsection (11), are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

(i) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(ii) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(iii) in the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

(iv) in the case of intangible property:

(A) that is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state; and

(B) that is sold, if and to the extent the property is used in this state, provided that:

(I) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this state" if the geographic area includes all or part of this state;

(II) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subsection (12)(a)(iv)(A); and

(III) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(b) If the state or states of assignment under subsection (12)(a) cannot be determined, the state or states of assignment shall be reasonably approximated.

(c) If the taxpayer is not taxable in a state to which a receipt is assigned under subsection (12)(a) or (12)(b), or if the state of assignment cannot be determined under subsection (12)(a) or reasonably approximated under subsection (12)(b), such receipt shall be excluded from the denominator of the receipts factor.

(d) The tax administrator may prescribe regulations as necessary or appropriate to carry out the purposes of this section.

(13) (a) If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(i) separate accounting;

(ii) the exclusion of any one or more of the factors;

(iii) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(iv) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(b) (i) If the allocation and apportionment provisions of this article do not fairly represent the extent of business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or activity, the tax administrator may, in addition to the authority provided in section (13)(a), establish appropriate rules or regulations for determining alternative allocation and apportionment methods for such taxpayers.

(ii) A regulation adopted pursuant to this section shall be applied uniformly, except that with respect to any taxpayer to whom such regulation applies, the taxpayer may petition for, or the tax administrator may require, adjustment pursuant to subsection (13)(a).

(c) (i) The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (13)(a) must prove by a preponderance of the evidence:

(A) that the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state; and

(B) that the alternative to such provisions is reasonable.

(ii) The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income. Notwithstanding the previous sentence, if the tax administrator can show that in any two of the prior five tax years, the taxpayer had used an allocation or apportionment method at variance with its allocation or apportionment method or methods used for such other tax years, then the tax administrator shall not bear the burden of proof in imposing a different method pursuant to (13)(a).

(d) If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this article.

(e) A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied.

ARTICLE V
ELEMENTS OF SALES AND USE TAX LAWS

Tax Credit

(1) Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by the purchaser with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates — Vendors May Rely

(2) Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

ARTICLE VI
THE COMMISSION

Organization and Management

(1) (a) The Multistate Tax Commission is hereby established. It shall be composed of one member from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate, but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or the attorney general's designee or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under subsection (1)(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings and shall provide for the giving of notice of annual, regular, and special meetings. Notice of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a presiding officer, a vice presiding officer, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix the executive director's duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

(2) (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the presiding officer, vice presiding officer, treasurer, and four other members elected annually by the

commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers

(3) In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) study state and local tax systems and particular types of state and local taxes;

(b) develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration;

(c) compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws;

(d) do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance

(4) (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this subsection (4)(b).

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under subsection (1)(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under subsection (1)(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any person authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII
UNIFORM REGULATIONS AND FORMS

(1) Whenever any two or more party states or subdivisions of party states have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration

of such law, including assertion of jurisdiction to tax or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

(2) Prior to the adoption of any regulation, the commission shall:

(a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings;

(b) afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

(3) The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

ARTICLE VIII
INTERSTATE AUDITS

(1) This article shall be in force only in those party states that specifically provide therefor by statute.

(2) Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

(3) The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, the person may be required to attend for such purpose at any time and place fixed by the commission within the state of which the person is a resident, provided that such state has adopted this article.

(4) The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article, and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this subsection apply only to courts in a state that has adopted this article.

(5) The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

(6) Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

(7) Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

(8) In no event shall the commission make any charge against a taxpayer for an audit.

(9) As used in this article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

ARTICLE IX
ARBITRATION

(1) Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of Article VII.

(2) The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

(3) Whenever a taxpayer who has elected to employ Article IV or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation if the taxpayer is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject the taxpayer to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein and agrees to be bound thereby.

(4) The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this subsection shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residents within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this subsection.

(5) The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence, or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

(6) The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

(7) The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoenas, and the court may punish failure to obey the order as a contempt. The provisions of this subsection apply only in states that have adopted this article.

(8) Unless the parties otherwise agree, the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless the member is

required on account of the service to forego the regular compensation attaching to the member's public employment, but any such board member shall be entitled to expenses.

(9) The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

(10) The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board, the board's written statement of its reasons therefor, the record of the board's proceedings, and any other documents required by the arbitration rules of the commission to be filed.

(11) The commission shall publish the determinations of boards, together with the statements of the reasons therefor.

(12) The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

(13) Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

ARTICLE X
ENTRY INTO FORCE AND WITHDRAWAL

(1) This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(3) No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

ARTICLE XI
EFFECT ON LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(1) affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III, subsection (2), of this compact;

(2) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII, subsection (9), may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI, subsection (3), may apply;

(3) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body;

(4) supersede or limit the jurisdiction of any court of the United States.

ARTICLE XII
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: En. Sec. 1, Ch. 17, L. 1969; amd. Sec. 1, Ch. 249, L. 1973; amd. Sec. 1, Ch. 163, L. 1975; R.C.M. 1947, 84-6701; amd. Sec. 142, Ch. 56, L. 2009; amd. Sec. 1, Ch. 268, L. 2017; amd. Sec. 1, Ch. 459, L. 2021; amd. Sec. 1, Ch. 51, L. 2023.

15-1-602. Montana compact commissioner — director of revenue. The director of the department of revenue shall represent this state on the multistate tax commission.

History: En. Sec. 2, Ch. 17, L. 1969; amd. Sec. 118, Ch. 405, L. 1973; R.C.M. 1947, 84-6702.

15-1-603. Alternate. The member representing this state on the multistate tax commission may be represented by an alternate designated by the member.

History: En. Sec. 3, Ch. 17, L. 1969; amd. Sec. 119, Ch. 405, L. 1973; R.C.M. 1947, 84-6703; amd. Sec. 143, Ch. 56, L. 2009.

15-1-604. Not codified. Committee abolished. Sec. 1, 82A-1806, Ch. 272, L. 1971.

History: En. Sec. 4, Ch. 17, L. 1969; amd. Sec. 27, Ch. 453, L. 1977; R.C.M. 1947, 84-6704.

Part 7
Collection of Delinquent Taxes — Warrant for Distraint

15-1-701. Warrant for distraint. (1) A warrant for distraint is an order, under the official seal of the department or of the department of transportation, directed to a sheriff of a county of Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy on and sell the real and personal property of a delinquent taxpayer.

(2) (a) On filing the warrant as provided in 15-1-704, there is a lien:

(i) against all real and personal property of the delinquent taxpayer located in the county where the warrant is filed; and

(ii) against money of the delinquent taxpayer in the state limited to:

(A) all funds in demand, savings, or time deposits held in banking institutions in which a delinquent taxpayer has ownership interest;

(B) wages and compensation owed to a delinquent taxpayer; and

(C) stock, equity interests, and investment accounts in which the delinquent taxpayer has ownership interest.

(b) The lien provided for in subsection (2)(a)(ii):

(i) may attach to the money in any county of the state, regardless of the location of the delinquent taxpayer or the county in which the warrant is filed. However, until the execution of the warrant and notice of levy occurs as provided in 15-1-706, the property described in subsection (2)(a)(ii) is not subject to or affected by the lien; and

(ii) may not be enforced against a delinquent taxpayer's money received by and in the possession of a person in a county where the warrant is not filed if the recipient had no actual notice or no actual knowledge of the execution of the warrant and notice of levy that created the lien.

(3) The resulting lien in subsection (2) is treated in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and the department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is enforced, except that the department may enforce the judgment lien at any time within 10 years of its creation or effective date, whichever is later.

(4) A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any, and accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint.

(5) The accelerated priority date provided for in subsection (4) is not valid against purchasers, holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint.

History: En. Sec. 1, Ch. 439, L. 1981; amd. Sec. 11, Ch. 512, L. 1991; amd. Sec. 1, Ch. 365, L. 1995; amd. Sec. 7, Ch. 529, L. 1995; amd. Sec. 1, Ch. 108, L. 2001; amd. Sec. 1, Ch. 589, L. 2023.

15-1-702. Issuance of warrant. (1) If a tax administered and collected by the department is not paid within 30 days of the due date, the department may issue a notice to the taxpayer that unless payment is received within 30 days of the date of the notice a warrant for distraint may be issued. Thirty days after the date of the notice, the department may issue a warrant if payment is not received.

(2) Use of the procedure to issue a warrant under this section does not preclude use of the procedure under 15-1-703 if the department determines that it is appropriate to utilize 15-1-703.

History: En. Sec. 2, Ch. 439, L. 1981; amd. Sec. 1, Ch. 131, L. 1989; amd. Sec. 144, Ch. 56, L. 2009.

15-1-703. Emergency issuance of warrant. (1) The department may issue a warrant for distraint without waiting for the expiration of either 30-day period provided for in 15-1-702 if:

(a) the department determines that the collection of the tax is or may be jeopardized because of the delay imposed by the waiting period; or

(b) the tax involved is a tax considered to be held in trust by the taxpayer under state law.

(2) Whenever the provisions of this section are utilized, the department must notify the taxpayer that warrants have been issued.

History: En. Sec. 3, Ch. 439, L. 1981.

15-1-704. Filing with district court. (1) After issuing a warrant, the department may file the warrant with the clerk of a district court. The clerk shall file the warrant in the judgment docket, with the name of the taxpayer listed as the judgment debtor.

(2) A copy of the filed warrant may be sent by the department to the sheriff or agent authorized to collect the tax.

(3) A judgment lien filed pursuant to this section may be renewed for another 10-year period, upon motion, or by judgment for that purpose founded upon supplemental pleadings.

History: En. Sec. 4, Ch. 439, L. 1981; amd. Sec. 8, Ch. 529, L. 1995; amd. Sec. 56, Ch. 42, L. 1997; amd. Sec. 5, Ch. 515, L. 2001.

15-1-705. Review. (1) Except as provided in 15-1-707, a taxpayer has the right to a review of the tax liability pursuant to 15-1-211 prior to execution on a filed warrant for distraint.

(2) The department must provide notice of the right to review to the taxpayer. This notice may be given prior to the notice referred to in 15-1-702. If the taxpayer notified the department that the taxpayer disagrees with an assessment as provided in 15-1-211, the warrant may not be executed upon until after the review process and any appeals are completed.

History: En. Sec. 5, Ch. 439, L. 1981; amd. Sec. 4, Ch. 811, L. 1991; amd. Sec. 145, Ch. 56, L. 2009.

15-1-706. Execution upon warrant. (1) Upon receipt of a copy of the filed warrant and notice from the department by electronic or other means that the applicable hearing provisions have been complied with, the sheriff or agent authorized to collect the tax shall proceed to execute upon the warrant in the same manner as prescribed for execution upon a judgment.

(2) A notice of levy may be made by means of a certified letter or, upon written consent of the recipient, by electronic means by an agent authorized to collect the tax. An agent is not entitled to any fee or compensation in excess of actual expenses incurred in enforcing the warrant.

(3) When issued, a notice of levy has the same force and effect as a writ of execution. A levy upon earnings continues in effect for 120 days or until the judgment is satisfied, whichever occurs first. The levy applies to all pay periods beginning during the 120-day period.

(4) A sheriff or agent shall return a warrant, along with any funds collected, within 90 days of the date of the warrant.

(5) If the warrant is returned not satisfied in full, the department has the same remedies to collect the deficiency as are available for any civil judgment.

(6) The department shall adopt rules to define and implement service of process by electronic means where authorized by law.

History: En. Sec. 6, Ch. 439, L. 1981; amd. Sec. 1, Ch. 397, L. 2001; amd. Sec. 1, Ch. 200, L. 2013; (6)En. Sec. 3, Ch. 200, L. 2013.

Cross-References

Execution of judgment, Title 25, ch. 13.

How writ executed, 25-13-402.

15-1-707. Emergency execution upon warrant. (1) The department may execute upon a filed warrant for distraint without providing an opportunity for a hearing prior to execution if the department determines that the collection of the tax is jeopardized because of the delay imposed by the hearing requirement.

(2) When the provisions of this section are utilized, the department shall notify the taxpayer and inform the taxpayer that the taxpayer has a right to request a hearing to be held subsequent to execution. A hearing, if desired, must be requested in writing within 30 days of the date of the notice and, if requested, must be held as soon as possible. The commencement of a proceeding under 15-1-705 does not preclude the use of the provisions of this section if the department determines that the action is appropriate.

History: En. Sec. 7, Ch. 439, L. 1981; amd. Sec. 146, Ch. 56, L. 2009.

15-1-708. Release of lien. (1) Upon payment in full of the unpaid tax plus accumulated penalty, if any, and accumulated interest, the department shall release the lien acquired by filing the warrant for distraint.

(2) Upon partial payment or whenever the department determines that a release or partial release of the lien will facilitate the collection of the unpaid tax, penalty, and interest, the department may release or may partially release the lien acquired by filing the warrant for distraint. The department may release the lien if it determines that the lien is unenforceable.

(3) (a) After making all reasonable efforts to collect unpaid taxes, penalties, and interest on the taxes and penalties, the department may determine a debt to be uncollectible. Upon determining that a debt is uncollectible, the department may proceed as provided in 17-4-104.

(b) Reasonable fees or costs of collection incurred by the department may be added to the amount of the debt, including added fees or costs. The debtor is liable for repayment of the amount of the debt plus fees or costs added pursuant to this subsection. All money collected must be applied to the debt, except that all fees or costs collected must be retained by the department. If less than the full amount of the debt is collected, the department shall retain only a proportionate share of the collection fees or costs.

History: En. Sec. 8, Ch. 439, L. 1981; amd. Secs. 11, 16, Ch. 529, L. 1995; amd. Sec. 16, Ch. 7, L. 2001; amd. Sec. 2, Ch. 108, L. 2001.

15-1-709. Remedy not exclusive. The use of the warrant for distraint provided for in 15-1-701 through 15-1-708 is not exclusive, and the department may use any other remedy provided by law for the collection of tax debts.

History: En. Sec. 9, Ch. 439, L. 1981.

Part 8
Payment of Taxes by Electronic Funds Transfer

15-1-801. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) "Taxes" means the taxes provided for in this title, except chapters 70 and 71.

History: En. Sec. 1, Ch. 96, L. 1985; amd. Sec. 3, Ch. 561, L. 1995.

15-1-802. Taxes to be paid by electronic funds transfer — limitation. All taxes due the state must be paid by electronic funds transfer whenever the amount due is $50,000 or greater. Whenever the payment of taxes is required to be made by electronic funds transfer under this section and the due date falls on a Saturday, Sunday, or legal holiday, the payment may be made on the first business day after that day.

History: En. Sec. 2, Ch. 96, L. 1985; amd. Sec. 1, Ch. 11, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 11, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 3, Ch. 11, L. 2025, provided: "[This act] applies to taxes paid by electronic funds transfers after December 31, 2025."

15-1-803. Rules. The department shall adopt rules necessary to implement this part, including but not limited to rules:

(1) coordinating the filing of tax returns with the payment of taxes by electronic funds transfer;

(2) specifying the form and methods of acceptable electronic payments;

(3) specifying the form and content of electronic funds transfer messages in order to ensure the proper receipt and crediting of the tax payment; and

(4) providing for an alternative form of payment when electronic payments required by 15-1-802 are not available to a taxpayer.

History: En. Sec. 3, Ch. 96, L. 1985; amd. Sec. 2, Ch. 11, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 11, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 3, Ch. 11, L. 2025, provided: "[This act] applies to taxes paid by electronic funds transfers after December 31, 2025."

Part 9 reserved

Part 10
Homeowner Property Tax Payment (Terminated)

15-1-1001. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 1, Ch. 574, L. 1995.

15-1-1002. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 2, Ch. 574, L. 1995.

15-1-1003. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 3, Ch. 574, L. 1995.

15-1-1004. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 4, Ch. 574, L. 1995.

15-1-1005. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 5, Ch. 574, L. 1995.

15-1-1006. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 6, Ch. 574, L. 1995.

15-1-1007. Terminated. Sec. 15, Ch. 574, L. 1995.
History: En. Sec. 7, Ch. 574, L. 1995.

Parts 11 through 22 reserved

Part 23
Rebate of Property Taxes Paid

15-1-2301. Terminated. Sec. 10, Ch. 47, L. 2023, sec. 10, Ch. 764, L. 2023.
History: En. Sec. 1, Ch. 47, L. 2023; amd. sec. 5, Ch. 764, L. 2023.

15-1-2302. Terminated. Sec. 10, Ch. 47, L. 2023.
History: En. Sec. 2, Ch. 47, L. 2023.

15-1-2303. Terminated. Sec. 10, Ch. 47, L. 2023.
History: En. Sec. 3, Ch. 47, L. 2023.

15-1-2304. Terminated. Sec. 10, Ch. 764, L. 2023.
History: En. Sec. 1, Ch. 764, L. 2023.

15-1-2305. *(Temporary)* **Definitions.** As used in this part, the following definitions apply:

(1) "Montana property taxes" means the ad valorem property taxes, special assessments, and other fees imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed and paid by the taxpayer for tax year 2024. The amount of Montana

property taxes assessed and paid is equal to the total amount billed by the local government for the dwelling as shown on the 2024 property tax bill received by the taxpayer with a first-half payment due in or around November 2024 and a second-half payment due in or around May 2025.

(2) "Owned" includes purchasing under a contract for deed and being the grantor or grantors under a revocable trust indenture.

(3) (a) "Principal residence" means, subject to the provisions of subsection (3)(b), a dwelling:

(i) in which an owner can demonstrate the owner owned and lived for at least 7 months of the year for which the property tax rebate is claimed;

(ii) that is the only residence for which the taxpayer claims the property tax rebate; and

(iii) for which the taxpayer made payment of the assessed Montana property taxes during tax year 2024.

(b) A taxpayer who cannot meet the requirements of subsection (3)(a)(i) because the owner's principal residence changed during the tax year to another principal residence may still claim the property tax rebate if the taxpayer paid the Montana property taxes while residing in each principal residence for a total of at least 7 consecutive months for the 2024 tax year.

(4) "Tax year 2024" means the period January 1, 2024, through December 31, 2024. *(Terminates June 30, 2026—sec. 29, Ch. 767, L. 2025.)*

History: En. Sec. 1, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective on passage and approval. Approved May 13, 2025.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Termination: Section 29, Ch. 767, L. 2025, provided that this section terminates June 30, 2026.

15-1-2306. *(Temporary)* **Property tax rebate — penalty for false or fraudulent claim.** (1) Except as provided in subsection (2), if the department discovers that a rebate paid to a taxpayer exceeded the amount allowed by this part, the department may, within 1 year from the date the rebate was transmitted to the taxpayer, assess the taxpayer for the difference. The assessment is subject to the uniform dispute review procedure established in 15-1-211.

(2) A person who files a false or fraudulent claim for a property tax rebate under this part is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid by the department, the amount paid may be recovered as any other tax owed the state, together with a penalty of 300% of the rebate claimed and interest on the amount of the rebate claimed plus penalty at the rate of 12% a year, until paid. If this rebate plus penalty becomes due and owing, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Terminates June 30, 2026—sec. 29, Ch. 767, L. 2025.)*

History: En. Sec. 2, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective on passage and approval. Approved May 13, 2025.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Termination: Section 29, Ch. 767, L. 2025, provided that this section terminates June 30, 2026.

15-1-2307. *(Temporary)* **Property tax rebate — manner of claiming — limitations — appeals — statutory appropriation.** (1) Subject to the conditions provided for in this part, there is a rebate of Montana property taxes in the amount of $400 or the amount of total property taxes paid, whichever is less, for tax year 2024.

(2) The rebate provided for in subsection (1) is for Montana property taxes assessed to and paid by a taxpayer or taxpayers on property they owned and occupied as a principal residence during tax year 2024.

(3) The department shall mail a notice to potential claimants by June 30, 2025, for tax year 2024. Receipt of a notice does not establish that a taxpayer or property owner is eligible for a rebate, and a taxpayer who does not receive a notice may still be eligible to claim a rebate. All taxpayers, regardless of the receipt of notice, shall claim a rebate as provided in subsection (5).

(4) Except as provided in subsections (5)(c) and (5)(d), a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre that is owned by an entity is not eligible to claim the rebate.

(5) (a) (i) All claims for this property tax rebate must be submitted to the department electronically or by mail.

(ii) Electronic claims must be submitted between August 15, 2025, and October 1, 2025, through the department's website.

(iii) Claims submitted by mail must be made on a form prescribed by the department and postmarked by October 1.

(iv) The department may grant an extension of time if the claimant establishes good cause for missing the October 1 deadline. The department's authority to consider an application terminates on December 1, 2025, and any applications or requests for extension received after that date may not be processed.

(b) Subject to subsections (5)(c) and (5)(d), a claim for rebate must be submitted, under penalty of false swearing and the penalties provided in 15-1-2306, on a form prescribed by the department and must contain:

(i) an affirmation that the claimant owns and maintains the land and improvements as the principal residence as defined in 15-1-2305;

(ii) the geocode or other property identifier for the principal residence that the claimant is requesting the rebate on;

(iii) the social security number of the claimant and the claimant's spouse; and

(iv) any other information as required by the department that is relevant to the claimant's eligibility.

(c) The personal representative of the estate of a deceased taxpayer may execute and file the claim for rebate on behalf of a deceased taxpayer who qualifies for the rebate.

(d) The trustee of a grantor revocable trust may file a claim on behalf of the trust if the dwelling meets the definition of a principal residence for the grantor.

(6) Only one rebate will be issued to a taxpayer for the Montana property taxes paid by the taxpayer for tax year 2024.

(7) If a debt is due and owing to the state, the department may offset the rebate in this section as provided in sections 15-30-2629, 15-30-2630, 17-4-105, or as otherwise provided by law.

(8) If a property tax rebate is denied by the department, the claimant is entitled to a written explanation why the application was denied. A claimant may make a written appeal of a denial to a management level employee of the department, who shall issue a final decision that is not appealable. Appeals occurring under this subsection (8) are not subject to the provisions contained in 15-1-211.

(9) The payment of property tax rebates and administration costs related to paying property tax rebates under this section are statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for distribution to taxpayers and for related administration costs. *(Terminates June 30, 2026—sec. 29, Ch. 767, L. 2025.)*

History: En. Sec. 3, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective on passage and approval. Approved May 13, 2025.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Termination: Section 29, Ch. 767, L. 2025, provided that this section terminates June 30, 2026.

CHAPTER 2
MONTANA TAX APPEAL BOARD

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15-2-309. Repealed.
15-2-310. Repealed.

Chapter Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.
Creation of Montana Tax Appeal Board, 2-15-1015.
State Board or Board defined as Montana Tax Appeal Board, 15-1-101.
County Tax Appeal Board, Title 15, ch. 15, part 1.

Part 1
Composition and Organization

15-2-101. Montana tax appeal board — appointment of members — term of office. There is a Montana tax appeal board composed of three members appointed by the governor for staggered terms with the advice and consent of the senate. However, a member appointed may serve until the next regular session of the legislature without the advice and consent of the senate. Each member shall hold office for a term of 6 years and until a successor shall be appointed and qualified. A vacancy must be filled by the governor subject to confirmation by the senate during the next legislative session. Succeeding appointments, except when made to fill a vacancy, must be made on or before January 31 during the session of the legislature preceding the commencement of the term for which the appointment is made.

History: En. Sec. 1, Ch. 3, L. 1923; re-en. Sec. 2122.1, R.C.M. 1935; amd. Sec. 50, Ch. 100, L. 1973; amd. Sec. 45, Ch. 405, L. 1973; R.C.M. 1947, 84-701; amd. Sec. 147, Ch. 56, L. 2009; amd. Sec. 12, Ch. 142, L. 2021.

15-2-102. Qualification and compensation. (1) To be appointed a member of the Montana tax appeal board, a person must possess knowledge of the subject of taxation and skill in matters relating to taxation. A member may not hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and may not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person's duties. The Montana tax appeal board is attached to the department of administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) Montana tax appeal board members must be paid a salary within the occupational wage range for the occupation designated by the department of administration as provided in subsection (3). Montana tax appeal board members must receive pay and pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation for the Montana tax appeal board members in the same manner that it determines the occupation for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the Montana tax appeal board members within the occupational wage range established by the department of administration.

History: En. Sec. 2, Ch. 3, L. 1923; re-en. Sec. 2122.2, R.C.M. 1935; amd. Sec. 1, Ch. 109, L. 1953; amd. Sec. 8, Ch. 225, L. 1963; amd. Sec. 13, Ch. 237, L. 1967; amd. Sec. 46, Ch. 405, L. 1973; amd. Sec. 26, Ch. 453, L. 1977; R.C.M. 1947, 84-702; amd. Sec. 1, Ch. 620, L. 1979; amd. Sec. 5, Ch. 605, L. 1981; amd. Sec. 4, Ch. 656, L. 1983; amd. Sec. 2, Ch. 236, L. 1985; amd. Sec. 5, Ch. 693, L. 1985; amd. Sec. 13, Ch. 660, L. 1989; amd. Sec. 15, Ch. 720, L. 1991; amd. Sec. 17, Ch. 455, L. 1995; amd. Sec. 9, Ch. 44, L. 2007; amd. Sec. 19, Ch. 81, L. 2007; amd. Sec. 8, Ch. 7, L. 2009; amd. Sec. 11, Ch. 430, L. 2017; amd. Sec. 13, Ch. 142, L. 2021.

15-2-103. Organization, quorum, sessions. The members of the Montana tax appeal board shall, without delay, meet at the state capital, and the governor shall designate one of their members as presiding officer. A majority of the board constitutes a quorum. The board is in continuous session and must be open for the transaction of business every day except Saturdays, Sundays, and legal holidays; and the sessions of the board must stand and be considered to be adjourned from day to day without formal entry upon its records. The board may hold sessions or conduct hearings and investigations at other places than the capital when considered necessary to facilitate the performance of its duties or to accommodate parties in interest.

History: En. Sec. 3, L. 1923; re-en. Sec. 2122.3, R.C.M. 1935; amd. Sec. 47, Ch. 405, L. 1973; R.C.M. 1947, 84-703; amd. Sec. 148, Ch. 56, L. 2009; amd. Sec. 14, Ch. 142, L. 2021.

15-2-104. Employees — expenses — minutes — rules. The Montana tax appeal board may appoint a secretary and employ other persons as experts, assistants, clerks, and stenographers as may be necessary to perform the duties that may be required of it. The total expenses of the board may not exceed, in the aggregate during any fiscal year, the amount appropriated for the board for all purposes by the legislature for that year. The secretary shall keep full and correct minutes of the transactions and proceedings of the board and may administer oaths and perform other duties as may be required. The board may adopt rules for the orderly and methodical performance of its duties as a tax appeal board and for conducting hearings and other proceedings before it.

History: En. Sec. 5, Ch. 3, L. 1923; re-en. Sec. 2122.5, R.C.M. 1935; amd. Sec. 1, Ch. 82, L. 1947; amd. Sec. 49, Ch. 405, L. 1973; R.C.M. 1947, 84-705; amd. Sec. 149, Ch. 56, L. 2009; amd. Sec. 15, Ch. 142, L. 2021.

15-2-105. Office, furnishings, and supplies. The board shall keep its office at the capital and shall be provided with suitable and necessary offices and office furniture, printing, supplies, stationery, books, periodicals, and financial and commercial reports.

History: En. Sec. 6, Ch. 3, L. 1923; re-en. Sec. 2122.6, R.C.M. 1935; amd. Sec. 50, Ch. 405, L. 1973; R.C.M. 1947, 84-706.

15-2-106. Seal. The Montana tax appeal board shall have a seal and the seal must have the following words engraved on it, "Tax Appeal Board of the State of Montana". The board shall authenticate all of its orders, records, and proceedings with the seal, and the courts of this state shall take judicial notice of the seal.

History: En. Sec. 17, Ch. 3, L. 1923; re-en. Sec. 2122.17, R.C.M. 1935; amd. Sec. 60, Ch. 405, L. 1973; R.C.M. 1947, 84-717; amd. Sec. 16, Ch. 142, L. 2021.

Part 2
Powers and Duties

15-2-201. Powers and duties. (1) It is the duty of the Montana tax appeal board to:

(a) prescribe rules for the tax appeal boards of the different counties in the performance of their duties and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all invited county tax appeal board members to attend if possible, and the cost of their attendance must be paid from the appropriation of the Montana tax appeal board;

(b) hear appeals from decisions of the county tax appeal boards and assess attorney fees against the department when a taxpayer substantially prevails on the merits of an appeal of the value of class four residential property, as provided in 15-2-306;

(c) hear appeals from decisions of the department in regard to business licenses, property assessments, taxes, except determinations that an employer-employee relationship existed

between the taxpayer and individuals subjecting the taxpayer to the requirements of chapter 30, part 25, and penalties.

(2) Oaths to witnesses in any investigation by the Montana tax appeal board may be administered by a member of the board or the member's agent. If a witness does not obey a summons to appear before the board or refuses to testify or answer any material questions or to produce records, books, papers, or documents when required to do so, that failure or refusal must be reported to the attorney general, who shall then institute proceedings in the proper district court to punish the witness for the neglect or refusal. A person who testifies falsely in any material matter under consideration by the board is guilty of perjury and punished accordingly. Witnesses attending must receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the board.

(3) The Montana tax appeal board also has the duties of an appeal board relating to other matters as may be provided by law.

History: En. Sec. 8, Ch. 3, L. 1923; re-en. Sec. 2122.8, R.C.M. 1935; amd. Sec. 1, Ch. 137, L. 1957; amd. Sec. 1, Ch. 227, L. 1963; amd. Sec. 1, Ch. 211, L. 1971; amd. Sec. 52(a), Ch. 405, L. 1973; amd. Sec. 3, Ch. 38, L. 1974; R.C.M. 1947, 84-708; amd. Sec. 1, Ch. 502, L. 1981; amd. Sec. 3, Ch. 529, L. 1995; amd. Sec. 1, Ch. 329, L. 2015; amd. Sec. 2, Ch. 104, L. 2021; amd. Sec. 17, Ch. 142, L. 2021; amd. Sec. 2, Ch. 691, L. 2023.

Cross-References

Witness fees in courts of record, 26-2-501.

Perjury, 45-7-201.

Part 3
Appeal Procedure

Part Cross-References

Department to defend property tax appeals, 15-8-115.

15-2-301. Appeal of county tax appeal board decisions — rulemaking. (1) (a) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the Montana tax appeal board by filing with the Montana board a notice of appeal within the later of:

(i) 45 calendar days after the date of the county board hearing; or

(ii) 30 calendar days after the date the county board mails its decision.

(c) The notice of appeal must specify the action complained of and the reasons assigned for the complaint.

(d) Notice of acceptance of an appeal must be given to the county board by the Montana board.

(e) The Montana board shall set the appeal for hearing either in its office in the capital or at the county seat as the Montana board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(f) The Montana board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) (a) At the time of giving notice of acceptance of an appeal, the Montana board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The Montana board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the Montana board may hear further testimony.

(c) For industrial property that is assessed annually by the department, the Montana board's review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) For the purpose of expediting its work, the Montana board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the Montana board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the Montana board. The Montana board shall determine the appeal on the record.

(3) (a) Except as provided in subsection (3)(b), the Montana tax appeal board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the Montana board does not use the appraisal provided by the taxpayer in conducting the appeal, the Montana board shall provide to the taxpayer the reason for not using the appraisal.

(b) If the appeal is an appeal of the valuation of residential property, the Montana board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and uses values obtained within the timeframe provided for in subsection (3)(a). The appraisal that is provided by the taxpayer is presumed to establish assessed value in the Montana board proceeding unless the department provides sufficient evidence to rebut the presumption of correctness, including another independent appraisal or other compelling valuation evidence. The Montana board shall address the taxpayer's independent appraisal and the department's valuation evidence in the decision.

(4) In every hearing at a county seat throughout the state, the Montana board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal under this section, the Montana board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The Montana board may not amend or repeal any administrative rule of the department. The Montana board shall give an administrative rule full effect unless the Montana board finds a rule arbitrary, capricious, or otherwise unlawful.

(6) The decision of the Montana board is final and binding on all interested parties and not subject to a rehearing unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the Montana board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property.

(8) If the appeal involves class four residential property, a person satisfying the requirements in subsection (1)(b) may make an election to have the Montana board consider the appeal on an informal basis. If an informal review is elected, the decision of the Montana board is final and binding on all parties, including the department, and is not subject to reconsideration or an appeal to district court by the taxpayer or the department. The Montana board shall adopt rules outlining informal review procedures pursuant to this subsection (8).

History: En. Sec. 9, Ch. 3, L. 1923; re-en. Sec. 2122.9, R.C.M. 1935; amd. Sec. 1, Ch. 33, L. 1939; amd. Sec. 54, Ch. 405, L. 1973; amd. Sec. 4, Ch. 38, L. 1974; amd. Sec. 1, Ch. 277, L. 1974; amd. Sec. 1, Ch. 155, L. 1977; amd. Sec. 1, Ch. 249, L. 1977; R.C.M. 1947, 84-709; amd. Sec. 1, Ch. 611, L. 1979; amd. Secs. 1, 2, Ch. 471, L. 1987; amd. Sec. 1, Ch. 247, L. 1991; amd. Sec. 4, Ch. 594, L. 1993; amd. Sec. 1, Ch. 15, Sp. L. November 1993; amd. Sec. 1, Ch. 134, L. 1997; amd. Sec. 81, Ch. 584, L. 1999; amd. Sec. 1, Ch. 26, L. 2015; amd. Sec. 5, Ch. 361, L. 2015; amd. Sec. 18, Ch. 142, L. 2021; amd. Sec. 1, Ch. 148, L. 2021; amd. Sec. 3, Ch. 691, L. 2023; amd. Sec. 1, Ch. 206, L. 2025; amd. Sec. 1, Ch. 385, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 206, L. 2025. Amendment effective April 17, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 385, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 3, Ch. 206, L. 2025, provided: "[This act] applies to appeals from the county tax appeal board hearings that occur on or after [the effective date of this act]." Effective April 17, 2025.

Section 2, Ch. 385, L. 2025, provided: "[This act] applies to Montana tax appeal board proceedings filed on or after [the effective date of this act]." Effective October 1, 2025.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

Appeal by person aggrieved by state debt collection procedure, 17-4-111.

15-2-302. Direct appeal from department decision to Montana tax appeal board — hearing. (1) (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in subsection (1)(b) must be made to the Montana tax appeal board.

(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final decisions involving:

(i) property centrally assessed under chapter 23;

(ii) classification of property as new industrial property;

(iii) any other tax, other than the property tax, imposed under this title; or

(iv) any other matter in which the appeal is provided by law.

(2) A person may appeal the department's annual assessment of an industrial property to the Montana board as provided in this section or to the county tax appeal board for the county in which the property is located as provided in Title 15, chapter 15, part 1.

(3) The appeal is made by filing a complaint with the Montana board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The Montana board shall immediately transmit a copy of the complaint to the department.

(4) The department shall file with the Montana board an answer within 30 days following filing of a complaint.

(5) The Montana board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act. Parties to an appeal shall attempt to attain the objectives of discovery through informal consultation or communication before utilizing formal discovery procedures. Formal discovery procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to obtain the needed information have not been successful.

(6) The decision of the Montana board is final and binding on all interested parties and not subject to a rehearing unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the Montana board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

History: En. 84-709.4 by Sec. 2, Ch. 155, L. 1977; R.C.M. 1947, 84-709.4; amd. Sec. 1, Ch. 59, L. 1993; amd. Sec. 5, Ch. 594, L. 1993; amd. Sec. 9, Ch. 491, L. 1997; amd. Sec. 1, Ch. 67, L. 2005; amd. Sec. 2, Ch. 26, L. 2015; amd. Sec. 2, Ch. 102, L. 2017; amd. Sec. 19, Ch. 142, L. 2021; amd. Sec. 4, Ch. 691, L. 2023.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

Appeal of penalty assessment for failure to furnish information to Department, 15-1-303.

County Tax Appeal Board, Title 15, ch. 15, part 1.

Appeal of action of Department on application for revision of income tax, 15-30-2607.

Appeal of action of Department on application for revision of corporate income tax, 15-31-532.

Appeal of determination of metalliferous mines license tax, 15-37-110.

Appeal of determination relating to gasoline and vehicle fuels taxes, 15-70-111.

15-2-303. Judicial review — costs and attorney fees. (1) Any party to an appeal before the Montana tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

(2) Proceedings for review must be instituted by filing a petition in district court in the county in which the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final decision of the Montana tax appeal board, and a rehearing of a Montana tax appeal board decision may not be requested after service of the final decision. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the Montana tax appeal board, in writing, of any judicial review, but failure to do so has no effect on the judicial review. The department of revenue shall, on request, submit to the Montana tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

(4) Proceedings for review of a decision by the Montana tax appeal board by a company under the jurisdiction of the public service commission must be instituted in the district court of the first judicial district.

(5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit additional evidence to be introduced.

(6) In addition to costs and attorney fees permitted under 25-10-711, the district court and the supreme court on the appeal of a district court decision shall award costs and reasonable attorney fees as determined by the respective court to a taxpayer that substantially prevails, as defined in 15-2-306(4), on the merits of an appeal of the value of class four residential property. Costs and attorney fees awarded by the district court and the supreme court are limited to cases in which the department appeals a decision of the Montana tax appeal board.

History: En. 84-708.1 by Sec. 52(b), Ch. 405, L. 1973; amd. Sec. 2, Ch. 277, L. 1974; amd. Sec. 1, Ch. 346; amd. Sec. 1, Ch. 404, L. 1975; R.C.M. 1947, 84-709.1; amd. Sec. 1, Ch. 77, L. 1981; amd. Sec. 6, Ch. 501, L. 1981; amd. Sec. 6, Ch. 594, L. 1993; amd. Sec. 3, Ch. 104, L. 2021; amd. Sec. 20, Ch. 142, L. 2021; amd. Sec. 48, Ch. 142, L. 2021; amd. Sec. 5, Ch. 691, L. 2023.

Cross-References

Review of decision relating to gasoline and vehicle fuels taxes, 15-70-111.
Costs allowed in action involving legality of any tax, 25-10-101, 25-10-102.
Public Service Commission jurisdiction, 69-1-102.

15-2-304. Petition for interlocutory adjudication. (1) (a) Either party, within 30 days of the filing of an answer to an appeal before the Montana tax appeal board, may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

(i) in the first judicial district;

(ii) in the county in which the taxable property is located; or

(iii) in cases not involving property taxes, in the county where the taxpayer resides or has the taxpayer's principal place of business in the state.

(b) The petition may raise any question involving procedure, the admissibility of evidence, or a substantive question of law raised by the pleadings within 30 days of filing an answer to the appeal with the Montana tax appeal board.

(c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or a substantive question of law.

(2) After the 30-day period specified in subsection (1)(b) but before arguments have been heard, the parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided under 15-2-305. A petition for an adjudication must be signed by each party to the proceeding.

(3) In a petition under subsection (1) or (2), one party must be designated as the petitioner and every other party must be designated a respondent. The court may in its discretion grant a petition if it appears that the issues presented involve procedure, the admissibility of evidence, or a substantive question of law and do not require the determination of questions of fact and that the controversy would be more expeditiously resolved by an adjudication. If the court grants a petition, it shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case.

History: En. 84-709.2 by Sec. 2, Ch. 404, L. 1975; R.C.M. 1947, 84-709.2(part); amd. Sec. 1, Ch. 506, L. 1987; amd. Sec. 1, Ch. 620, L. 1991; amd. Sec. 150, Ch. 56, L. 2009; amd. Sec. 21, Ch. 142, L. 2021.

15-2-305. Jurisdiction to make interlocutory adjudication. A district court may make an interlocutory adjudication of an issue pending before the Montana tax appeal board if that issue involves procedure, the admissibility of evidence, or a substantive question of law and does not require the determination of a question of fact. If the petition is granted, the district court shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case. Appeals from the ruling of the court may be appealed as in other civil actions.

History: En. 84-709.3 by Sec. 3, Ch. 404, L. 1975; R.C.M. 1947, 84-709.3(part); amd. Sec. 2, Ch. 620, L. 1991; amd. Sec. 22, Ch. 142, L. 2021.

Cross-References

Civil appeals, Title 25, ch. 21.

15-2-306. Board to order refund. (1) In any appeal before the Montana tax appeal board when a taxpayer has paid property taxes or fees under written protest and the taxes or fees are held by the treasurer of a unit of local government in a protest fund, the Montana tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or fees should be refunded.

(2) In addition to costs and attorney fees permitted under 25-10-711, the board shall award costs and reasonable attorney fees as determined by the board from the department to a taxpayer that substantially prevails on the merits of an appeal of the value of class four residential property. Costs and attorney fees awarded by the board are limited to cases in which the department appeals a decision of the county tax appeal board.

(3) The Montana tax appeal board's judgment issued pursuant to subsections (1) and (2) must be held in abeyance:

(a) until the time period for appeal has passed; or

(b) if the final decision of the Montana tax appeal board has been appealed in accordance with 15-2-303.

(4) For the purpose of this section, "substantially prevails" means:

(a) a judgment that results in a reduction in value from the department's appealed value of the taxpayer's property; and

(b) the amount of the reduction provided for in the judgment is greater than 25% of the difference between the value in the department's original appeal from the county tax appeal board proceeding and the value claimed by the taxpayer for the Montana tax appeal board or court proceeding.

History: En. Sec. 2, Ch. 501, L. 1981; amd. Sec. 7, Ch. 594, L. 1993; amd. Sec. 4, Ch. 104, L. 2021; amd. Sec. 23, Ch. 142, L. 2021; amd. Sec. 48, Ch. 142, L. 2021.

15-2-307. Repealed. Sec. 10, Ch. 594, L. 1993.
History: En. Sec. 1, Ch. 526, L. 1981.

15-2-308. Repealed. Sec. 10, Ch. 594, L. 1993.
History: En. Sec. 2, Ch. 526, L. 1981.

15-2-309. Repealed. Sec. 10, Ch. 594, L. 1993.
History: En. Sec. 3, Ch. 526, L. 1981.

15-2-310. Repealed. Sec. 10, Ch. 594, L. 1993.
History: En. Sec. 4, Ch. 526, L. 1981.

CHAPTERS 3 THROUGH 5
RESERVED

CHAPTER 6
PROPERTY SUBJECT TO TAXATION

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15-6-101. Property subject to taxation — classification.
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15-6-103. Repealed.
15-6-104. Repealed.
15-6-105. Repealed.
15-6-106. Repealed.
15-6-107. Repealed.
15-6-108. Repealed.
15-6-109. Repealed.
15-6-110. Repealed.
15-6-111. Repealed.
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15-6-120. Repealed.
15-6-121. Repealed.
15-6-122. Business equipment tax on business personal property.
15-6-123 through 15-6-130 reserved.
15-6-131. Class one property — description — taxable percentage.
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15-6-133. Class three property — description — taxable percentage.
15-6-134. Class four property — description — taxable percentage — definitions.
15-6-135. Class five property — description — taxable percentage — exemption.
15-6-136. Repealed.
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15-6-139. Repealed.
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15-6-141. Class nine property — description — taxable percentage.
15-6-142. Repealed.
15-6-143. Class ten property — description — taxable percentage.
15-6-144. Repealed.
15-6-145. Class twelve property — description — taxable percentage.
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15-6-150. Repealed.
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15-6-153. Repealed.
15-6-154. Repealed.
15-6-155. Repealed.
15-6-156. Class thirteen property — description — taxable percentage.
15-6-157. Class fourteen property — description — taxable percentage.
15-6-158. Class fifteen property — description — taxable percentage.
15-6-159. Class sixteen property — description — taxable percentage.
15-6-160 and 15-6-161 reserved.
15-6-162. Class seventeen property — description — taxable percentage.
15-6-163. Class eighteen property — description — taxable percentage.
15-6-164 through 15-6-190 reserved.
15-6-191. Repealed.
15-6-192. Repealed.
15-6-193. Repealed.
15-6-194. Rules.

Part 2 — Tax-Exempt Property

15-6-201. Governmental, charitable, and educational categories — exempt property.
15-6-202. Freeport merchandise and business inventories exemption — definitions.
15-6-203. Veterans' exemptions — clubhouse — land — incompetent veterans' trusts.
15-6-204. Money and credits exemption.
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15-6-207. Agricultural producer exemptions — products — unused beet equipment — low-value buildings, implements, and machinery.
15-6-208. Mineral exemptions — small coal or metal mines producer — travertine — bentonite.
15-6-209. Community services buildings exempt.
15-6-210. Repealed.
15-6-211. Repealed.
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15-6-213. Down-hole equipment in oil and gas wells exempt.
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15-6-223. Timber exemption.
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15-6-225. Small electrical generation equipment exemption.
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15-6-230. Temporary exemption for certain tribal property — rulemaking.
15-6-231. Terminated.
15-6-232. Terminated.
15-6-233. Terminated.
15-6-234. Duty to report change in use.
15-6-235. New property tax exemptions — department notification to local governments.
15-6-236 reserved.
15-6-237. Periodic review of exempt property — rulemaking.
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15-6-240. Intangible land value property exemption — application procedure.
15-6-241. Mobile home exemption.
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15-6-416 and 15-6-417 reserved.
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15-6-506. Temporary exemption for senior care and housing development project — rulemaking.
15-6-507. Reports to local government by tax-exempt senior care and housing sponsor.
15-6-508. Rulemaking.

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15-6-701. Property tax assistance for primary residences.
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Chapter Cross-References

Tax purposes, Art. VIII, sec. 1, Mont. Const.

Property tax administration, Art. VIII, sec. 3, Mont. Const.

Equal valuation, Art. VIII, sec. 4, Mont. Const.

Property tax exemptions, Art. VIII, sec. 5, Mont. Const.

Reservation of power to tax certain persons and property within land purchased by United States under Art. I, sec. 8, part 17, U.S. Const., 2-1-202.

Reservation of power to tax certain persons and property within Glacier National Park, 2-1-205.

Reservation of power to tax certain persons and property within land ceded to United States for Fort Peck Dam, 2-1-209.

Reservation of power to tax certain persons and property purchased for national forest purposes, 2-1-210.

Rights, privileges, and immunities reserved to Indians on assumption of criminal jurisdiction over Flathead Indian Reservation, 2-1-304.

Resort tax, Title 7, ch. 6, part 15.

Suspension of property taxes for persons in military services — application required, 10-1-606.

Taxable value defined, 15-1-101.

Taxation of condominium units, 15-8-511, 15-8-512.

Taxes on banks that have ceased to do business, 32-1-509.

Real and personal property of insurance guaranty association subject to taxation, 33-10-107.

Real property of life and health insurance guaranty association — subject to taxation, 33-10-208.

Taxation of motor vehicles, Title 61, ch. 3, part 5.

Owner of life estate under duty to pay taxes, 70-16-103.

Covenant to pay taxes or assessments runs with land, 70-17-203.

Payment of taxes required to prove adverse possession, 70-19-411.

Payment of property taxes on condominiums prior to completion and on filing of declaration, 70-23-304.

Taxation of property subject to conservation easement, 76-6-208.

Part 1
Classification

Part Cross-References

Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

15-6-101. Property subject to taxation — classification. (1) All property in this state is subject to taxation, except as provided otherwise.

(2) For the purpose of taxation, the taxable property in the state shall be classified in accordance with this part.

History: (1)En. Sec. 1667, Comp. Stat. 1887; en. Sec. 1, p. 73, L. 1891; re-en. Sec. 3670, Pol. C. 1895; re-en. Sec. 2498, Rev. C. 1907; re-en. Sec. 1997, R.C.M. 1921; Cal. Pol. C. Sec. 3607; re-en. Sec. 1997, R.C.M. 1935; amd. Sec. 1, Ch. 126, L. 1977; Sec. 84-201, R.C.M. 1947; (2)En. 84-301.1 by Sec. 1, Ch. 566, L. 1977; Sec. 84-301.1, R.C.M. 1947; R.C.M. 1947, 84-201, 84-301.1; amd. Sec. 13, Ch. 686, L. 1979; amd. Sec. 15, Ch. 693, L. 1979; amd. Sec. 18, Ch. 712, L. 1979; amd. Sec. 2, Ch. 20, L. 1985; amd. Sec. 3, Ch. 681, L. 1985.

Cross-References

Suspension of property taxes for persons in military services, 10-1-606.

Property exempt from taxation, Title 15, ch. 6, part 2.

15-6-102. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.2 by Sec. 2, Ch. 566, L. 1977; R.C.M. 1947, 84-301.2.

15-6-103. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.3 by Sec. 3, Ch. 566, L. 1977; R.C.M. 1947, 84-301.3.

15-6-104. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.4 by Sec. 4, Ch. 566, L. 1977; R.C.M. 1947, 84-301.4.

15-6-105. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.5 by Sec. 5, Ch. 566, L. 1977; R.C.M. 1947, 84-301.5.

15-6-106. Repealed. Sec. 17, Ch. 634, L. 1979; Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.6 by Sec. 6, Ch. 566, L. 1977; R.C.M. 1947, 84-301.6.

15-6-107. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.7 by Sec. 7, Ch. 566, L. 1977; R.C.M. 1947, 84-301.7.

15-6-108. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.8 by Sec. 8, Ch. 566, L. 1977; R.C.M. 1947, 84-301.8.

15-6-109. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-301.9 by Sec. 9, Ch. 566, L. 1977; R.C.M. 1947, 84-301.9.

15-6-110. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.10 by Sec. 10, Ch. 566, L. 1977; amd. Sec. 11, Ch. 566, L. 1977; R.C.M. 1947, 84-301.10.

15-6-111. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.11 by Sec. 12, Ch. 566, L. 1977; R.C.M. 1947, 84-301.11.

15-6-112. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.12 by Sec. 13, Ch. 566, L. 1977; R.C.M. 1947, 84-301.12.

15-6-113. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.13 by Sec. 14, Ch. 566, L. 1977; R.C.M. 1947, 84-301.13.

15-6-114. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.14 by Sec. 15, Ch. 566, L. 1977; R.C.M. 1947, 84-301.14.

15-6-115. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.15 by Sec. 16, Ch. 566, L. 1977; amd. Sec. 11, Ch. 566, L. 1977; R.C.M. 1947, 84-301.15.

15-6-116. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.16 by Sec. 17, Ch. 566, L. 1977; amd. Sec. 2, Ch. 499, L. 1977; amd. Sec. 8, Ch. 576, L. 1977; R.C.M. 1947, 84-301.16.

15-6-117. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.17 by Sec. 18, Ch. 566, L. 1977; R.C.M. 1947, 84-301.17.

15-6-118. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.18 by Sec. 19, Ch. 566, L. 1977; R.C.M. 1947, 84-301.18.

15-6-119. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. 84-301.19 by Sec. 20, Ch. 566, L. 1977; R.C.M. 1947, 84-301.19.

15-6-120. Repealed. Sec. 27, Ch. 693, L. 1979.
History: En. Sec. 15, Ch. 498, L. 1977; R.C.M. 1947, 84-310.20.

15-6-121. Repealed. Sec. 27, Ch. 693, L. 1979; Sec. 30, Ch. 712, L. 1979.
History: En. Sec. 3, Ch. 502, L. 1977; R.C.M. 1947, 84-301.21.

15-6-122. Business equipment tax on business personal property. A personal property tax applied to any class of personal property, excluding livestock, described in this part that belongs to, is claimed by, or is in the possession of or under the control or management of a sole proprietor, firm, association, partnership, business, corporation, or limited liability company is a business equipment tax.
History: En. Sec. 1, Ch. 347, L. 1995.

15-6-123 through 15-6-130 reserved.

15-6-131. Class one property — description — taxable percentage. (1) Class one property includes the annual net proceeds of all mines and mining claims except bentonite, coal, and metal mines.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 or, for industrial garnets and associated byproducts, as provided in 15-23-518.
History: En. Sec. 1, Ch. 693, L. 1979; amd. Sec. 1, Ch. 323, L. 1983; amd. Sec. 3, Ch. 531, L. 1989; amd. Sec. 3, Ch. 695, L. 1991; amd. Sec. 1, Ch. 700, L. 1991; amd. Sec. 3, Ch. 506, L. 1993; amd. Sec. 3, Ch. 397, L. 1995; amd. Sec. 12, Ch. 559, L. 2005.

Cross-References
Assessment of property, 15-8-111.
Mines net proceeds tax, Title 15, ch. 23, part 5.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

15-6-132. Class two property — description — taxable percentage. (1) Class two property includes the annual gross proceeds of metal mines.

(2) Class two property is taxed at 3% of its annual gross proceeds, as defined in 15-23-801.
History: En. Sec. 2, Ch. 693, L. 1979; amd. Sec. 72, Ch. 11, Sp. L. June 1989.

Cross-References
Coal and metal mines — exemptions, 15-6-208.
Assessment of property, 15-8-111.

Coal gross proceeds tax, Title 15, ch. 23, part 7.
Metal mines gross proceeds tax, Title 15, ch. 23, part 8.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

15-6-133. Class three property — description — taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing land.

(2) Subject to subsection (3), class three property is taxed at 2.05% of its productive capacity value.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land.

History: En. Sec. 3, Ch. 693, L. 1979; amd. Sec. 1, Ch. 739, L. 1985; amd. Sec. 3, Ch. 773, L. 1991; amd. Sec. 1, Ch. 267, L. 1993; amd. Sec. 1, Ch. 627, L. 1993; amd. Sec. 4, Ch. 485, L. 1995; amd. Sec. 1, Ch. 376, L. 2005; amd. Sec. 6, Ch. 361, L. 2015; amd. Sec. 13, Ch. 767, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 13, Ch. 767, L. 2025. Amendment effective May 13, 2025.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Legislature to enact laws to enhance and develop agriculture, Art. XII, sec. 1, Mont. Const.
Definition of agricultural, 15-1-101.
Assessment of property, 15-8-111.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

15-6-134. Class four property — description — taxable percentage — definitions. (1) Class four property includes:

(a) all land, except that specifically included in another class;

(b) (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;

(iii) vacant residential lots; and

(iv) rental multifamily dwelling units.

(c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202;

(d) 1 acre of real property beneath residential improvements on land described in 15-6-133(1)(c) and 1 acre of real property beneath an improvement used as a residence on land eligible for valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

(e) real property beneath commercial improvements and as much of the surrounding land that is reasonably required to support the commercial improvements on land described in 15-6-133(1)(c) and real property beneath commercial improvements and as much of the surrounding land that is reasonably required to support the commercial improvements on land eligible for valuation, assessment, and taxation as forest land under 15-6-143. The land must be valued at market value.

(f) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated;

(iv) shooting ranges that are not exempt from property taxes under 15-6-201 and are operated by an entity that is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) or 501(c)(4) of the Internal Revenue Code, as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2; and

(v) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) Subject to 15-24-1402, 15-24-1501, and 15-24-1502, class four property is taxed as follows:

(a) Except as provided in subsections (3)(b) and (3)(c), class four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.9% of market value.

(b) (i) The tax rate for class four residential property described in subsections (1)(a), (1)(b)(i), (1)(b)(ii), and (1)(d) of this section that qualifies for the homestead reduced tax rate provided for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411 is:

(A) 0.76% for the market value that is less than or equal to the median residential value;

(B) 0.9% for the market value that is greater than the median residential value and less than 2 times the median residential value;

(C) 1.1% for the market value that is 2 times the median residential value or greater and less than 4 times the median residential value; and

(D) 1.9% for the market value that is 4 times the median residential value or greater.

(ii) The tax rate for a rental multifamily dwelling unit described in subsection (1)(b)(iv) that qualifies for the rental property reduced tax rate is 1.1%.

(c) The tax rate for property described in subsection (1)(c) that does not qualify for the homestead reduced tax rate or the rental property reduced tax rate is 1.35%.

(d) The tax rate for commercial and industrial property described in subsections (1)(e) and (1)(f), except property described in subsections (1)(f)(ii) [and (1)(f)(iv)], is:

(i) for the market value less than 6 times the median commercial and industrial value, 1.5%; and

(ii) for the market value 6 times the median commercial and industrial value or greater, 1.9%.

(e) Property described in subsections (1)(f)(ii) and (1)(f)(iv) is taxed at one-half the tax rate established in subsection (3)(d).

(4) The department shall calculate the median residential value and median commercial and industrial value every 2 years as part of the periodic reappraisal provided for in 15-7-111.

(5) As used in this section, the following definitions apply:

(a) "Median commercial and industrial value" means the median value of class four commercial and industrial property located in the state of Montana rounded to the nearest thousand dollars.

(b) "Median residential value" means the median value of a single-family residence located in the state of Montana rounded to the nearest thousand dollars.

(c) (i) "Shooting range" means buildings, improvements, and appurtenant land of up to 150 acres that is reasonably necessary to provide a safe and suitable place for people to discharge firearms.

(ii) The term does not include a residence, the 1 acre beneath a residence, improvements or land used for a commercial business, or any improvements that are not integral to providing a safe and suitable place for people to discharge firearms.

History: En. Sec. 4, Ch. 693, L. 1979; amd. Sec. 3, Ch. 638, L. 1979; amd. Sec. 1, Ch. 599, L. 1981; amd. Sec. 59, Ch. 575, L. 1981; amd. Sec. 1, Ch. 564, L. 1981; amd. Sec. 1, Ch. 25, L. 1983; amd. Sec. 2, Ch. 632, L. 1983; amd. Sec. 1, Ch. 292, L. 1985; amd. Sec. 1, Ch. 663, L. 1985; amd. Sec. 2, Ch. 739, L. 1985; amd. Sec. 2, Ch. 743, L. 1985; amd. Sec. 1, Ch. 427, L. 1987; amd. Sec. 1, Ch. 575, L. 1987; amd. Sec. 1, Ch. 612, L. 1991; amd. Sec. 4, Ch. 773, L. 1991; amd. Sec. 6, Ch. 267, L. 1993; amd. Sec. 1, Ch. 562, L. 1993; amd. Sec. 1, Ch. 485, L. 1995; amd. Sec. 8, Ch. 574, L. 1995; amd. Sec. 7, Ch. 200, L. 1997; amd. Sec. 2, Ch. 463, L. 1997; amd. Sec. 1, Ch. 436, L. 1999; amd. Sec. 82, Ch. 584, L. 1999; amd. Sec. 2, Ch. 135, L. 2001; amd. Sec. 3, Ch. 606, L. 2003; amd. Sec. 1, Ch. 532, L. 2005; amd. Sec. 1, Ch. 584, L. 2005; amd. Sec. 4, Ch. 421, L. 2009; amd. Sec. 2, Ch. 483, L. 2009; amd. Sec. 7, Ch. 361, L. 2015; amd. Sec. 2, Ch. 333, L. 2017; amd. Sec. 1, Ch. 564, L. 2025; amd. Sec. 27, Ch. 674, L. 2025; amd. Sec. 14, Ch. 767, L. 2025, amd. Sec. 15, Ch. 767, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination — Code Commissioner Correction: See 2025 Session Law for amendment made by sec. 1, Ch. 564, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 27, Ch. 674, L. 2025. Amendment effective May 13, 2025, and terminates December 31, 2025.

See 2025 Session Law for amendment made by sec. 15, Ch. 767, L. 2025. Amendment effective January 1, 2026.

The amendments to this section made by sec. 13, Ch. 674, L. 2025, and sec. 14, Ch. 674, L. 2025, were rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

The amendment to this section made by sec. 14, Ch. 767, L. 2025, was replaced by sec. 27, Ch. 674, L. 2025, a coordination section.

In (3)(d) the Code Commissioner inserted "and (1)(f)(iv)" to reflect the intent of Ch. 564 that property described in subsection (1)(f)(iv) be taxed as provided in subsection (3)(e).

Applicability — Retroactive Applicability: Section 2, Ch. 564, L. 2025, provided: "[This act] applies to tax years beginning after December 31, 2025."

Section 32, Ch. 674, L. 2025, provided that the amendments to this section made by sec. 27, Ch. 674, L. 2025, apply retroactively to property tax years beginning after December 31, 2024.

Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Definition of improvements and mobile home, 15-1-101.
Certain disabled veterans' residences exempt, 15-6-311.
Effect of periodic revaluation, 15-7-103.
Assessment of property, 15-8-111.
Taxation of condominiums, 15-8-511, 15-8-512.
New industrial property tax prepayment, 15-16-201.
Reduction of tax on improvements destroyed by natural disaster, 15-16-611.
Payment of tax on mobile homes, manufactured homes, and housetrailers, Title 15, ch. 24, part 2.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.
Taxation of property subject to conservation easement, 76-6-208.

15-6-135. Class five property — description — taxable percentage — exemption. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control and carbon capture equipment as defined in this section;

(c) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

(d) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(e) machinery and equipment used in electrolytic reduction facilities; and

(f) all property used and owned by persons, firms, corporations, or other organizations that:

(i) are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less; or

(ii) furnish telecommunications services in or own property in not more than three counties.

(2) (a) "Air and water pollution control and carbon capture equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment certified as provided in subsections (2)(b) and (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. This includes machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control and carbon capture equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control and carbon capture equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control and carbon capture equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) To qualify for the exemption under subsection (3)(b)(i), the air and water pollution control and carbon capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon capture equipment enhances the performance of existing air and water pollution control and carbon capture equipment, only the market value of the enhancement is subject to the exemption under subsection (3)(b)(i).

(e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under subsection (3)(b)(i) includes but is not limited to equipment placed into service to maintain, replace, or repair equipment installed on or before January 1, 2014.

(f) A person may appeal the certification, classification, and valuation of the property to the Montana tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) Except as provided in subsection (3)(b), class five property is taxed at 3% of its market value.

(b) (i) Air and water pollution control and carbon capture equipment placed in service after January 1, 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation.

(ii) (A) Except as provided in subsection (3)(b)(ii)(B), fiber optic or coaxial cable, as defined in 15-6-156, installed and placed in service on or after July 1, 2021, and wireless infrastructure, as defined in 15-6-156, placed in service on or after July 1, 2025, is exempt from taxation for a period of 5 years starting from the date the fiber optic or coaxial cable or wireless infrastructure was placed in service, after which the property exemption is phased out at a rate of 20% a year, with the property being assessed at 100% of its taxable value after a 10-year period. In order to maintain the exemption, the owner of fiber optic or coaxial cable or wireless infrastructure shall reinvest the tax savings from the exemption by installing and placing in service new fiber optic or coaxial cable or wireless infrastructure in Montana within 2 years from the date the owner first claimed the exemption provided for in this subsection (3)(b)(ii) without charging those costs to the consumer. The cost of installing or placing into service fiber optic or coaxial cable or wireless infrastructure with the reinvested tax savings without charging those costs to the consumer must be equal to or greater than the value of the tax savings received from the tax incentive.

(B) Fiber optic or coaxial cable installed using federal funds received pursuant to section 9901 of the American Rescue Plan Act is not eligible for exemption from taxation under this section.

(C) An entity that claims a tax exemption under this subsection (3)(b)(ii) shall maintain adequate books and records demonstrating the investment the owner made when installing and placing in service fiber optic or coaxial cable or wireless infrastructure in Montana. The property owners shall make those records available to the department for inspection upon request.

(4) (a) The property taxes exempted from taxation by subsection (3)(b)(ii) are subject to termination or recapture if the department determines that the owner failed to install and place in service new coaxial or fiber cable or wireless infrastructure in Montana as provided in subsection (3)(b)(ii) or otherwise violates the provisions of this section.

(b) Upon notice from the department that the owner's exemption has terminated, any local governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the provisions of subsection (3)(b)(ii) was improper. Any recapture must occur within 10 years after the end of the calendar year in which the exemption was first claimed.

(c) The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: (1), (2)(a), (3) thru (6)En. Sec. 5, Ch. 693, L. 1979; amd. Sec. 4, Ch. 660, L. 1979; (2)(b)En. Sec. 1, Ch. 659, L. 1979; amd. Sec. 60, Ch. 575, L. 1981; amd. Sec. 36, Ch. 370, L. 1987; amd. Sec. 1, Ch. 519, L. 1987; amd. Sec. 1, Ch. 568, L. 1987; amd. Sec. 3, Ch. 659, L. 1987; amd. Sec. 1, Ch. 694, L. 1991; amd. Sec. 1, Ch. 510, L. 1993; amd. Sec. 39, Ch. 418, L. 1995; amd. Sec. 26, Ch. 51, L. 1999; amd. Sec. 32, Ch. 426, L. 1999; amd. Sec. 2, Ch. 100, L. 2007; amd. Sec. 1, Ch. 407, L. 2015; amd. Sec. 24, Ch. 142, L. 2021; amd. Sec. 1, Ch. 266, L. 2021; amd. Sec. 1, Ch. 483, L. 2021; amd. Sec. 1, Ch. 644, L. 2023; amd. Sec. 1, Ch. 620, L. 2025; amd. Sec. 1, Ch. 623, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 620, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 623, L. 2025. Amendment effective May 13, 2025.

Applicability — Retroactive Applicability: Section 6, Ch. 620, L. 2025, provided: "[This act] applies to fiber optic or coaxial cable and wireless infrastructure placed in service on or after [the effective date of this act]." Effective July 1, 2025.

Section 3, Ch. 623, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024."

Cross-References

Assessment of property, 15-8-111.

Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

School district may impose additional prerequisites to qualify as new industrial property, 20-9-407.

Payment of taxes on motor vehicles, 61-3-303, 61-3-501.

15-6-136. Repealed. Secs. 27, 31, Ch. 285, L. 1999.

History: En. Sec. 6, Ch. 693, L. 1979; amd. Sec. 1, Ch. 330, L. 1981; amd. Sec. 5, Ch. 613, L. 1981; amd. Sec. 2, Ch. 599, L. 1983; amd. Sec. 2, Ch. 570, L. 1985; amd. Sec. 1, Ch. 660, L. 1987; amd. Sec. 1, Ch. 598, L. 1989; amd. Sec. 1, Ch. 648, L. 1989; amd. Sec. 2, Ch. 10, Sp. L. June 1989; amd. Sec. 5, Ch. 773, L. 1991; amd. Sec. 1, Ch. 409, L. 1997; amd. Sec. 1, Ch. 546, L. 1997; amd. Sec. 11, Ch. 285, L. 1999; amd. Sec. 1, Ch. 555, L. 1999; amd. Sec. 1, Ch. 11, Sp. L. May 2000.

15-6-137. Class seven property — description — taxable percentage. (1) Except as provided in subsection (2), class seven property includes:

(a) all property owned by cooperative rural electrical associations that serve less than 95% of the electricity consumers within the incorporated limits of a city or town, except rural electric cooperative properties described in 15-6-141(1)(c);

(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) Class seven property does not include wind generation facilities, biomass generation facilities, energy storage facilities classified under 15-6-157, and property classified under 15-6-163.

(3) Class seven property is taxed at 8% of its market value.

History: En. Sec. 7, Ch. 693, L. 1979; amd. Sec. 2, Ch. 330, L. 1981; amd. Sec. 1, Ch. 352, L. 1981; amd. Sec. 61, Ch. 575, L. 1981; amd. Sec. 1, Ch. 576, L. 1989; amd. Sec. 4, Ch. 10, Sp. L. June 1989; amd. Sec. 32, Ch. 505, L. 1997; amd. Sec. 33, Ch. 426, L. 1999; amd. Sec. 4, Ch. 563, L. 2005; amd. Sec. 1, Ch. 357, L. 2009; amd. Sec. 1, Ch. 309, L. 2011; amd. Sec. 3, Ch. 291, L. 2021.

Cross-References

Assessment of property, 15-8-111.

Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

15-6-138. Class eight property — description — taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135;

(c) for oil and gas production, all:

(i) machinery;

(ii) fixtures;

(iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, the following definitions apply:

(a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101 or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

(d) "Governing body" means the governing body of the county where the class eight property is located.

(e) "Manufacturing machinery, fixtures, and equipment" means all property used in the manufacturing process, whether permanently or temporarily in place, to transform raw or finished materials into something possessing a new nature or name and adopted to a new use. The term includes but is not limited to refinery property.

(3) Except as provided in 15-24-1402 and this section, class eight property is taxed at:

(a) for the first $6 million of taxable market value in excess of the exemption amount in subsection (4), 1.5%; and

(b) for all taxable market value in excess of $6 million, 3%.

(4) (a) Except as provided in subsection (4)(b), the first $1 million of market value of class eight property of a person or business entity is exempt from taxation.

(b) Subject to subsection (6), manufacturing machinery, fixtures, and equipment installed and placed in service after December 31, 2022, are exempt or partially exempt from taxation for a period of 5 years starting from the later of the date they were placed in service or October 1, 2023, after which the exemption amount allowed under subsection (6)(d) is phased out at a rate of 20% of the amount allowed by the governing body a year, with the property being assessed at 100% of its taxable value after a 10-year period. An entity that claims a tax exemption under this subsection (4)(b) shall maintain adequate books and records demonstrating the investment the owner made when installing and placing the property into service in the state. The property owners shall make the records available to the department for inspection on request.

(5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold.

(6) (a) In order for a taxpayer to receive the tax abatement described in subsection (4)(b), the taxpayer shall submit an application for the abatement and a project plan to the governing body and receive approval pursuant to this subsection (6). For property in which a taxpayer does not seek approval prior to commencing construction, the taxpayer shall apply:

(i) by March 1 of the year during which the abatement is first applicable for property placed in service on or after October 1, 2023; or

(ii) by January 31, 2024, for property placed in service after December 31, 2022, and before October 1, 2023.

(b) In order to receive an abatement, the governing body must approve the abatement request in the application by resolution for each project, following due notice as provided in 7-1-2121 and a public hearing. The governing body may not grant approval for the project until the applicant's property taxes have been paid in full. Taxes paid under protest do not preclude approval. If a taxpayer receives approval of a tax abatement prior to commencement of construction, the abatement does not extend to property that is outside the scope of the project plan that was submitted to the governing body with the application.

(c) The purpose of the public hearing is to determine whether the manufacturing machinery, fixtures, and equipment eligible for an abatement has an impact on services. The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax abatement; and

(ii) conduct a public hearing regarding an application for the tax abatement and make a determination whether the eligible abatement activities will have a fiscal impact to the county.

(d) Within 120 days of receiving the application provided for in subsection (6)(a), the governing body shall issue a decision regarding whether to allow the abatement at 100%, 90%, or 80%. If the governing body fails to issue a decision within 120 days of receiving the application, the application is considered approved in an amount equal to 100%. If the property qualifies for the abatement, the local government may not deny the abatement and the minimum amount of the abatement may not be less than 80%.

History: **En. Sec. 8, Ch. 693, L. 1979; amd. Sec. 62, Ch. 575, L. 1981; amd. Sec. 1, Ch. 278, L. 1983; amd. Sec. 1, Ch. 599, L. 1983; amd. Sec. 4, Ch. 516, L. 1985; amd. Sec. 3, Ch. 743, L. 1985; amd. Sec. 5, Ch. 453, L. 1987; amd. Sec. 1, Ch. 584, L. 1987; amd. Sec. 3, Ch. 611, L. 1987; amd. Sec. 2, Ch. 576, L. 1989; amd. Sec. 2, Ch. 598, L. 1989; amd. Sec. 5, Ch. 10, Sp. L. June 1989; amd. Sec. 1, Ch. 575, L. 1993; amd. Sec. 1, Ch. 570, L. 1995; amd. Sec. 2, Ch. 121, L. 1997; amd. Sec. 2, Ch. 496, L. 1997; amd. Sec. 12, Ch. 285, L. 1999; amd. Sec. 1, Ch. 551, L. 1999; amd. Sec. 2, Ch. 555, L. 1999; amd. Sec. 2, Ch. 11, Sp. L. May 2000; amd. Sec. 1, Ch. 438, L. 2001; amd. Sec. 19, Ch. 114, L. 2003; amd. Sec. 1, Ch. 505, L. 2003; amd. Sec. 1, Ch. 3, L. 2005; amd. Sec. 1, Ch. 531, L. 2005; amd. Sec. 2, Ch. 532, L. 2005; amd. Sec. 6, Ch. 542, L. 2005; amd. Sec. 2, Ch. 584, L. 2005; amd. Sec. 20, Ch. 2, L. 2009; amd. Sec. 1, Ch. 343, L. 2009; amd. Sec. 5, Ch. 421, L. 2009; amd. Sec. 1, Ch. 487, L. 2009; amd. Sec. 2, Ch. 411,**

L. 2011; amd. Sec. 4, Ch. 268, L. 2013; amd. Sec. 2, Ch. 396, L. 2013; amd. Sec. 8, Ch. 361, L. 2015; amd. Secs. 4 thru 8, Ch. 506, L. 2021; amd. Sec. 2, Ch. 45, L. 2023; amd. Sec. 1, Ch. 234, L. 2023; amd. Sec. 1, Ch. 695, L. 2023.

Cross-References

Assessment of property, 15-8-111.
Prorated taxes on aircraft, 15-24-304.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.
Fee imposed in lieu of tax on snowmobiles, 23-2-626.
Taxation of aircraft, 67-3-201.

15-6-139. Repealed. Sec. 11, Ch. 10, Sp. L. June 1989.

History: En. Sec. 9, Ch. 693, L. 1979; amd. Sec. 63, Ch. 575, L. 1981; amd. Sec. 9, Ch. 614, L. 1981; amd. Sec. 2, Ch. 278, L. 1983; amd. Sec. 3, Ch. 598, L. 1989.

15-6-140. Repealed. Sec. 11, Ch. 10, Sp. L. June 1989.

History: En. Sec. 10, Ch. 693, L. 1979; amd. Sec. 64, Ch. 575, L. 1981; amd. Sec. 10, Ch. 614, L. 1981; amd. Sec. 3, Ch. 278, L. 1983; amd. Sec. 3, Ch. 20, L. 1985; amd. Sec. 2, Ch. 584, L. 1987; amd. Sec. 4, Ch. 611, L. 1987; amd. Sec. 4, Ch. 598, L. 1989.

15-6-141. Class nine property — description — taxable percentage. (1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both;

(b) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or other similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative;

(d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas transmission or oil transmission pipelines regulated by either the public service commission or the federal energy regulatory commission, a common carrier pipeline as defined in 69-13-101, or the gas gathering facilities specified in 15-6-138(5); and

(e) centrally assessed companies' allocations except:

(i) electrical generation facilities classified under 15-6-156;

(ii) all property classified under 15-6-157;

(iii) all property classified under 15-6-158 and 15-6-159;

(iv) property owned by cooperative rural electric and cooperative rural telephone associations and classified under 15-6-135;

(v) property owned by organizations providing telephone communications to rural areas and classified under 15-6-135;

(vi) railroad transportation property included in 15-6-145;

(vii) airline transportation property included in 15-6-145;

(viii) telecommunications property included in 15-6-156; and

(ix) all property classified under 15-6-163.

(2) Class nine property is taxed at 12% of market value.

History: En. Sec. 13, Ch. 686, L. 1979; amd. Sec. 1, Ch. 367, L. 1981; amd. Sec. 2, Ch. 478, L. 1981; amd. Sec. 1, Ch. 722, L. 1985; amd. Sec. 4, Ch. 743, L. 1985; amd. Sec. 3, Ch. 7, Sp. L. March 1986; amd. Sec. 6, Ch. 773, L. 1991; amd. Sec. 33, Ch. 505, L. 1997; amd. Sec. 34, Ch. 426, L. 1999; amd. Sec. 26, Ch. 556, L. 1999; amd. Sec. 17, Ch. 7, L. 2001; amd. Sec. 1, Ch. 406, L. 2001; amd. Sec. 5, Ch. 563, L. 2005; amd. Sec. 10, Ch. 2, Sp. L. May 2007; amd. Sec. 2, Ch. 357, L. 2009; amd. Sec. 2, Ch. 487, L. 2009; amd. Sec. 2, Ch. 309, L. 2011; amd. Sec. 4, Ch. 411, L. 2011; amd. Sec. 3, Ch. 396, L. 2013; amd. Sec. 4, Ch. 291, L. 2021; amd. Sec. 2, Ch. 234, L. 2023.

Cross-References

Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

15-6-142. Repealed. Sec. 15, Ch. 773, L. 1991.

History: En. Sec. 4, Ch. 632, L. 1983; amd. Sec. 2, Ch. 663, L. 1985; amd. Sec. 3, Ch. 739, L. 1985; amd. Sec. 2, Ch. 427, L. 1987; amd. Sec. 2, Ch. 575, L. 1987; amd. Sec. 2, Ch. 612, L. 1991.

15-6-143. Class ten property — description — taxable percentage. (1) Class ten property includes all forest lands, as defined in 15-44-102, and property described in subsection (2).

(2) Any parcel of growing timber totaling less than 15 acres qualifies as class ten property if, in a prior year, the parcel totaled 15 acres or more and qualified as forest land but the number of acres was reduced to less than 15 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality and, since that reduction in acres, the parcel has not been further divided.

(3) Class ten property is taxed at:

(a) 0.29% of its forest productivity value in tax year 2023;

(b) 0.27% of its forest productivity value in tax year 2024; and

(c) 0.37% of its forest productivity value in tax years after 2024.

History: En. Sec. 2, Ch. 681, L. 1985; amd. Sec. 16, Ch. 773, L. 1991; amd. Secs. 6, 7, Ch. 783, L. 1991; amd. Sec. 1, Ch. 297, L. 1997; amd. Sec. 83, Ch. 584, L. 1999; amd. Sec. 3, Ch. 483, L. 2009; amd. Sec. 1, Ch. 243, L. 2013; amd. Sec. 9, Ch. 361, L. 2015; amd. Sec. 1, Ch. 427, L. 2021; amd. Sec. 1, Ch. 638, L. 2023.

Cross-References

Growing timber not agricultural use, 15-7-202.

15-6-144. Repealed. Sec. 9, Ch. 267, L. 1993.

History: En. Sec. 2, Ch. 699, L. 1985; amd. Sec. 2, Ch. 35, Sp. L. June 1986; amd. Sec. 7, Ch. 773, L. 1991.

15-6-145. Class twelve property — description — taxable percentage. (1) Class twelve property includes all property of a railroad car company as defined in 15-23-211, all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%, whichever is less.

(3) R = A/B where:

(a) A is the total statewide taxable value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d); and

(b) B is the total statewide market value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d).

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall conduct a sales assessment ratio study of all commercial and industrial real property and improvements. The study must be based on:

(i) assessments of such property as of January 1 of the year for which the study is being conducted; and

(ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same taxable year or from the immediately preceding taxable year, but only if a sufficient number of certificates is unavailable from the current taxable year to provide a statistically valid sample.

(b) The department shall determine the value-weighted mean sales assessment ratio "M" for all such property and reduce the taxable value of property described in subsection (4) only, by multiplying the total statewide taxable value of property described in subsection (4)(a) by "M" prior to calculating "A" in subsection (3)(a).

(c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each subsequent tax year to equalize the railroad taxable values.

(5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class twelve property, as commercial property is defined in 15-1-101(1)(d).

History: En. Sec. 5, Ch. 743, L. 1985; amd. Sec. 1, Ch. 7, Sp. L. March 1986; amd. Sec. 1, Ch. 24, Sp. L. June 1986; amd. Sec. 8, Ch. 773, L. 1991; amd. Sec. 1, Ch. 10, Sp. L. July 1992.

Cross-References
Assessment of property, 15-8-111.
Assessment of railroad properties, 15-23-205.

15-6-146. Repealed. Sec. 11, Ch. 10, Sp. L. June 1989.
History: En. Sec. 6, Ch. 743, L. 1985; amd. Sec. 2, Ch. 568, L. 1987; amd. Sec. 8, Ch. 578, L. 1987; amd. Sec. 1, Ch. 649, L. 1987; amd. Sec. 1, Ch. 59, L. 1989.

15-6-147. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 2, Ch. 7, Sp. L. March 1986; amd. Sec. 1, Ch. 19, L. 1989.

15-6-148. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 1, Ch. 34, Sp. L. June 1986.

15-6-149. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 3, Ch. 35, Sp. L. June 1986.

15-6-150. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 1, Ch. 618, L. 1987.

15-6-151. Renumbered 15-6-191. Code Commissioner, 1999.

15-6-152. Renumbered 15-6-192. Code Commissioner, 1999.

15-6-153. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 2, Ch. 34, Sp. L. June 1986.

15-6-154. Repealed. Sec. 15, Ch. 773, L. 1991.
History: En. Sec. 4, Ch. 35, Sp. L. June 1986.

15-6-155. Repealed. Secs. 15, 18(2), Ch. 773, L. 1991.
History: En. Sec. 2, Ch. 618, L. 1987; amd. Sec. 9, Ch. 773, L. 1991.

15-6-156. Class thirteen property — description — taxable percentage. (1) Except as provided in subsections (2)(a) through (2)(i), class thirteen property includes:

(a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

(b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any electrical energy producer;

(d) allocations of centrally assessed telecommunications services companies; and

(e) dedicated communications infrastructure or electrical generation systems described in 15-6-162(5) for which construction commenced after June 30, 2037, or for which the 10-year period provided for in 15-6-162(5) has expired.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or 15-6-157;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified under 15-6-135;

(f) property owned by organizations providing telecommunications services and classified under 15-6-135;

(g) generation facilities that are exempt under 15-6-225;

(h) qualified data centers classified under 15-6-162; and

(i) property classified under 15-6-163.

(3) For the purposes of this section, the following definitions apply:

(a) (i) "Electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, turbine generators that are driven by falling water, or solar panel systems.

(ii) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(iii) (A) The term also does not include a qualifying facility certified by the federal energy regulatory commission.

(B) To qualify for consideration of an abatement as allowed in 15-24-1402, the requesting entity must disclose, in writing, its intent to request certification as a qualifying facility to the governing body.

(C) If the intent is not disclosed and an abatement granted, abatement may be rescinded by the governing body.

(D) Certified qualifying facilities are classified under 15-6-134 and 15-6-138.

(iv) The term also does not include a facility that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than power from a small power production facility and classified under 15-6-134 and 15-6-138.

(b) (i) "Fiber optic or coaxial cable" means any fiber optic or coaxial cable, including all capitalized costs associated with installing and placing in service the fiber optic or coaxial cable, and other property that is normally operated when installing and placing in service fiber optic or coaxial cable to deliver digital communication and access to the internet.

(ii) The term does not include routers, head-end equipment, central office equipment and other electronics, or hardware or software not directly associated with installing and placing in service fiber optic or coaxial cable or the buildings used to house equipment.

(c) (i) "Wireless infrastructure" means signal transmission facilities and associated network equipment, including all capitalized costs associated with installing and placing these facilities and network equipment in service, together with other property that is directly associated with providing wireless service to customers and which includes power equipment, cables, lines, radios, antennas, transceivers, shelters, and towers.

(ii) The term does not include central office equipment and other electronics or hardware or software not directly associated with installing and placing wireless infrastructure into service.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), class thirteen property is taxed at 6% of its market value.

(b) (i) Except as provided in subsection (4)(b)(ii), fiber optic or coaxial cable installed and placed in service on or after July 1, 2021, and wireless infrastructure placed in service on or after July 1, 2025, is exempt from taxation for a period of 5 years starting from the date the fiber optic or coaxial cable or wireless infrastructure was placed in service, after which the property exemption is phased out at a rate of 20% a year, with the property being assessed at 100% of its taxable value after a 10-year period. In order to maintain the exemption, the owner of fiber optic or coaxial cable or wireless infrastructure shall reinvest the tax savings from the exemption by installing and placing in service new fiber optic or coaxial cable or wireless infrastructure in Montana within 2 years from the date the owner first claimed the exemption provided for in this subsection (4)(b) without charging those costs to the consumer. The cost of installing or placing into service fiber optic or coaxial cable or wireless infrastructure with the reinvested tax savings without charging those costs to the consumer must be equal to or greater than the value of the tax savings received from the tax incentive.

(ii) Fiber optic or coaxial cable installed using federal funds received pursuant to Section 9901 of the American Rescue Plan Act is not eligible for exemption from taxation under this section.

(iii) An entity that claims a tax exemption under this subsection (4)(b) shall maintain adequate books and records demonstrating the investment the owner made when installing and

placing in service fiber optic or coaxial cable or wireless infrastructure in Montana. The property owners shall make those records available to the department for inspection upon request.

(c) Property described in subsection (1)(e) is taxed at half the rate provided for in subsection (4)(a) for 10 years after the 10-year period provided for in 15-6-162(5) has expired.

(5) (a) The property taxes exempted from taxation by subsection (4)(b) are subject to termination or recapture if the department determines that the owner failed to install and place in service new coaxial or fiber cable or wireless infrastructure in Montana as provided in subsection (4)(b) or otherwise violates the provisions of this section.

(b) Upon notice from the department that the owner's exemption has terminated, any local governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar year in which the exemption was first claimed.

(c) The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 27, Ch. 556, L. 1999; amd. Sec. 34(2), Ch. 556, L. 1999; amd. Sec. 5, Ch. 591, L. 2001; amd. Sec. 6, Ch. 563, L. 2005; amd. Sec. 3, Ch. 357, L. 2009; amd. Sec. 3, Ch. 309, L. 2011; amd. Sec. 2, Ch. 438, L. 2017; amd. Sec. 1, Ch. 215, L. 2021; amd. Sec. 5, Ch. 291, L. 2021; amd. Sec. 2, Ch. 483, L. 2021; amd. Sec. 2, Ch. 620, L. 2025; amd. Sec. 3, Ch. 678, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 2, Ch. 620, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 3, Ch. 678, L. 2025. Amendment effective May 13, 2025.

Applicability — Retroactive Applicability: Section 6, Ch. 620, L. 2025, provided: "[This act] applies to fiber optic or coaxial cable and wireless infrastructure placed in service on or after [the effective date of this act]." Effective July 1, 2025.

Section 7, Ch. 678, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024."

15-6-157. Class fourteen property — description — taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;

(e) biomass generation facilities up to 25 megawatts in nameplate capacity of a centrally assessed electric power company;

(f) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(g) noncentrally assessed biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by any electrical energy producer;

(h) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by cooperative rural electric associations described under 15-6-137;

(i) energy storage facilities of a centrally assessed electric power company;

(j) energy storage facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(k) noncentrally assessed energy storage facilities owned or operated by any electrical energy producer;

(l) energy storage facilities owned or operated by cooperative rural electrical associations described under 15-6-137;

(m) battery energy storage systems that comply with federal standards on the manufacture and installation of the systems that are owned and operated by an electrical energy storage producer, electrical energy producer, or energy trading entity or by the owner or operator of an electrical vehicle charging site;

(n) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(o) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(p) all property of a biomass gasification facility, as defined in 15-24-3102;

(q) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(t) of this section, that sequesters carbon dioxide;

(r) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(s) all property of a geothermal facility, as defined in 15-24-3102;

(t) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(u) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(v) all property of a natural gas combined cycle facility;

(w) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(x) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(y) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(z) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007;

(aa) all property of a renewable diesel production facility, as defined in 15-24-3102, that has commenced construction after December 31, 2020; and

(bb) all property of a sustainable aviation fuel production facility, as defined in 15-24-3102, that has commenced construction after December 31, 2020.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(z) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(4) For the purposes of this section, the following definitions apply:

(a) "Biomass generation facilities" means any combination of boilers, generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from the burning of organic material other than coal, petroleum, natural gas, or any products derived from coal, petroleum, or natural gas, with the use of natural gas or other fuels allowed for ignition and to stabilize boiler operations.

(b) (i) "Compressed air energy storage" means the conversion of electrical energy to compressed air by using an electrically powered turbocompressor for storage in vessels designed for that purpose and in the earth, including but not limited to deep saline formations, basalt formations, aquifers, depleted oil or gas reservoirs, abandoned mines, and mined rock cavities.

(ii) The term includes the conversion of compressed air into electrical energy by using turboexpander equipment and electrical generation equipment.

(c) (i) "Energy storage facilities" means hydroelectric pumped storage property, compressed air energy storage property, regenerative fuel cells, batteries, flywheel storage property, or any combination of energy storage facilities directly connected to the electrical power grid and associated property, appurtenant land and improvements, and personal property that are designed to:

(A) receive and store electrical energy as potential energy; and

(B) convert the stored energy into electrical energy for sale as an energy commodity or as electricity services to balance energy flow on the electrical power grid in order to maintain a stable transmission grid, including but not limited to frequency regulation ancillary services and frequency control.

(ii) The term includes only property that in the aggregate can store at least 0.25 megawatt hour and has a power rating of at least 1 megawatt for a period of at least 0.25 hour.

(iii) The term does not include property, including associated property and appurtenant land and improvements, that is used to hold water in ponds, reservoirs, or impoundments related to hydroelectric pumped storage as defined in subsection (4)(e).

(d) "Flywheel storage" means a process that stores energy kinetically in the form of a rotating flywheel. Energy stored by the rotating flywheel can be converted to electrical energy through the flywheel's integrated electric generator.

(e) "Hydroelectric pumped storage" means a process that converts electrical energy to potential energy by pumping water to a higher elevation, where it can be stored indefinitely and then released to pass through hydraulic turbines and generate electrical energy.

(f) (i) "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

(ii) The term does not include a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system as defined in 15-6-163.

(g) "Wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection (1)(x), (1)(y), or (1)(z), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection (1)(x), (1)(y), or (1)(z), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value.

History: En. Sec. 1, Ch. 563, L. 2005; amd. Sec. 11, Ch. 2, Sp. L. May 2007; amd. Sec. 6, Ch. 277, L. 2009; amd. Sec. 4, Ch. 357, L. 2009; amd. Sec. 4, Ch. 309, L. 2011; amd. Sec. 6, Ch. 291, L. 2021; amd. Sec. 1, Ch. 692, L. 2023.

15-6-158. Class fifteen property — description — taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, ethanol production facility, renewable diesel production facility, or sustainable aviation fuel production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-414, were not paid during the construction phase.

(4) (a) Except as provided in subsection (4)(b), class fifteen property is taxed at 3% of its market value.

(b) Carbon sequestration equipment placed in service after January 1, 2014, that is certified as provided in subsection (5) and that has a current granted tax abatement under 15-24-3111 is taxed at 1.5% of its reduced market value during the qualifying period provided for in 15-24-3111(7).

(5) (a) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(b) The board of oil and gas conservation shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of carbon sequestration equipment. The board of oil and gas conservation shall identify and track compliance in the use of carbon sequestration equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(c) A person may appeal the certification, classification, and valuation of the property to the Montana tax appeal board. Appeals on the property certification must name the board of oil and gas conservation as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

History: En. Sec. 7, Ch. 2, Sp. L. May 2007; amd. Sec. 7, Ch. 277, L. 2009; amd. Sec. 2, Ch. 407, L. 2015; amd. Sec. 25, Ch. 142, L. 2021; amd. Sec. 2, Ch. 692, L. 2023.

15-6-159. Class sixteen property — description — taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value.

History: En. Sec. 8, Ch. 2, Sp. L. May 2007; amd. Sec. 8, Ch. 277, L. 2009.

15-6-160 and 15-6-161 reserved.

15-6-162. Class seventeen property — description — taxable percentage. (1) Class seventeen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135 of a qualified data center.

(2) (a) "Qualified data center" means the land, improvements, and personal property of a facility designed or modified to house networked computers or equipment supporting computing, networking, or data storage that is composed of one or more buildings under single ownership, provided that a single ownership entity includes a wholly owned subsidiary or a parent company with 100% ownership interest, on contiguous parcels of land that consist of at least:

(i) 300,000 square feet, where the total cost of land, improvements, personal property, and software is at least $150 million with construction commencing after June 30, 2017; or

(ii) 25,000 square feet of new or expanded area, where the total cost of land, improvements, personal property, and software is at least $50 million invested during a 48-month period with construction commencing after January 1, 2019.

(b) The term includes but is not limited to:

(i) cooling systems, cooling towers, and other temperature infrastructure;

(ii) power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the facility, including:

(A) exterior dedicated business-owned substations;

(B) backup power generation systems, battery systems, and related infrastructure; and

(C) electrical generation and storage systems that commence operation after May 13, 2025, and are located on the facility side of the utility meter and primarily used by a qualified data center for onsite power; or

(iii) any other equipment necessary for the maintenance and operation of the facility.

(3) During construction, property not meeting the requirements of subsection (2) must be classified as class seventeen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the requirements of subsection (2) within 2 years of the date of the certification.

(4) Except as provided in subsection (5), the taxable property of a qualified data center must be locally assessed.

(5) (a) Class seventeen property includes centrally assessed interstate or intrastate dedicated communications infrastructure that is owned or leased by the owner of a qualified data center and is composed of telecommunication or data lines, equipment, and services, including but not limited to copper or fiber optic lines or microwave, satellite, or other wireless communication systems.

(b) To qualify under this subsection (5), construction of the owned or leased interstate or intrastate communications infrastructure must commence after June 30, 2017, and before July 1, 2037, and must satisfy the criteria of this section.

(c) Dedicated communications infrastructure provided for in this subsection (5) is taxed at the rate provided for in subsection (8) for a period of 10 years from the time that construction commences. After the 10-year period, the dedicated communications infrastructure is taxed as class thirteen property at the rate provided in 15-6-156.

(d) Electrical generation systems provided for in subsection (2)(b)(ii)(C) are taxed at the rate provided for in subsection (8) for a period of 10 years from the time that construction commences. After the 10-year period, the electrical generation systems are taxed as class thirteen property at the rate provided in 15-6-156.

(6) (a) Except as provided in subsection (6)(b), electrical generation and storage systems are considered primarily used onsite if used at least 80% for onsite consumption as measured on an annualized kilowatt hour basis as certified annually to the department. Utility grade metering must be installed at the point of electrical generation to measure total kilowatt hours produced.

(b) If the governor declares an electrical generation emergency, the 80% requirement in subsection (6)(a) does not apply to a qualified data center that relies on backup power generation systems and makes electricity generated on the facility side of the utility meter available to the utility to help service residential and business customers during the emergency period.

(7) Class seventeen property included in an urban renewal area or targeted economic development district is subject to the elementary, high school, and state equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360.

(8) Property identified as class seventeen property under this section, whether centrally or locally assessed, is taxed at 0.9% of its market value.

History: En. Sec. 1, Ch. 438, L. 2017; amd. Sec. 1, Ch. 383, L. 2019; amd. Sec. 4, Ch. 678, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 678, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 7, Ch. 678, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024."

15-6-163. Class eighteen property — description — taxable percentage. (1) (a) Subject to subsection (1)(b), class eighteen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies, except those included in class five property under 15-6-135 of a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system.

(b) Power generation primary fuel sources must be at least 25% by volume derived from green hydrogen to qualify under this section.

(2) During construction, property not meeting the definitions in subsection (6) must be classified as class eighteen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the definitions in subsection (6) within 2 years of the date of the certification.

(3) The taxable property of a green hydrogen facility, a green hydrogen pipeline, and a green hydrogen storage system must be locally assessed.

(4) Class eighteen property does not include a green hydrogen facility, pipeline, or storage system for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-401(13), were not paid during the construction phase.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), class eighteen property is taxed at 3% of its market value.

(b) Class eighteen property defined in subsection (1) or meeting the requirements of subsection (2) is taxed at 1.5% of its market value for the first 15 years from the time construction commences.

(c) Class eighteen property defined in subsection (1) for which the owners have made an additional investment of $25 million or more is taxed at 1.5% of market value for the first 15 years from the time construction commences on the additional investment.

(6) As used in this section, the following definitions apply:

(a) "Green hydrogen" means hydrogen that is produced from nonfossil fuel feedstock sources and does not produce incremental greenhouse gas emissions during its production. The term does not include hydrogen produced using steam reforming or any other conversion technology that produces hydrogen from fossil fuel feedstock.

(b) "Green hydrogen facility" means the land, improvements, and personal property of a facility designed or modified:

(i) to produce green hydrogen through electrolysis technology;

(ii) to store or transport green hydrogen; or

(iii) to convert green hydrogen back to electricity through a hydrogen-capable power generation source with construction commencing after July 1, 2021.

(c) "Green hydrogen pipeline" means a pipeline used for the transport or storage of green hydrogen, with construction commencing after July 1, 2021.

(d) "Green hydrogen storage system" means the temporary storage of green hydrogen in a vessel, pipeline, or geologic formation.

History: En. Sec. 1, Ch. 291, L. 2021.

15-6-164 through 15-6-190 reserved.

15-6-191. Repealed. Sec. 4, Ch. 6, L. 2009.

History: En. Sec. 12, Ch. 693, L. 1979; amd. Sec. 1, Ch. 101, L. 1981; amd. Sec. 65, Ch. 575, L. 1981; amd. Sec. 3, Ch. 632, L. 1983; amd. Sec. 3, Ch. 663, L. 1985; amd. Sec. 9, Ch. 574, L. 1995; Sec. 15-6-151, MCA 1997; redes. 15-6-191 by Code Commissioner, 1999.

15-6-192. Repealed. Sec. 4, Ch. 644, L. 2023.

History: En. Sec. 13, Ch. 693, L. 1979; Sec. 15-6-152, MCA 1997; redes. 15-6-192 by Code Commissioner, 1999; amd. Sec. 21, Ch. 2, L. 2009.

15-6-193. Repealed. Sec. 31, Ch. 361, L. 2015.

History: En. Secs. 1, 2, Ch. 606, L. 2003; amd. Sec. 4, Ch. 483, L. 2009; amd. Sec. 1, Ch. 3, L. 2011.

15-6-194. Rules. (1) The department of revenue shall adopt rules for the implementation of 15-6-163 and this section, including:

(a) the valuation of property and administration of property classified under 15-6-163; and

(b) rules necessary for certification and compliance with 15-6-163.

(2) The rules may include specifying procedures, including timeframes for application, and definitions necessary to identify property for compliance.

History: En. Sec. 2, Ch. 291, L. 2021.

Part 2
Tax-Exempt Property

Part Cross-References

Property tax exemptions, Art. VIII, sec. 5, Mont. Const.

Suspension of property tax for persons in military service — application required, 10-1-606.

Injunction to prevent collection of tax on exempt property, 15-1-405.

Assessment of taxable improvements on tax-exempt land, 15-8-701.

Reduction of tax on improvements destroyed by natural disaster, 15-16-611.

Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

Federal sums in lieu of taxes, Title 17, ch. 3, part 3.

Aircraft exempt from nonaircraft- or nonairport-related city tax levies, 67-3-201.

Exemption for property of conservation district, 76-15-404.

Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

15-6-201. Governmental, charitable, and educational categories — exempt property. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) (A) except as provided in 87-1-603, the state;

(B) counties, cities, and towns; and

(C) school districts;

(iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

(iv) municipal corporations;

(v) public libraries;

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(vii) special districts created pursuant to Title 7, chapter 11, part 10; and

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;

(c) land and improvements on the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;

(d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;

(e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

(i) is not operated for gain or profit;

(ii) has an attendance policy; and

(iii) has a definable curriculum with systematic instruction;

(f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

(g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(h) property that is:

(i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21; or

(B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(j) evidence of debt secured by mortgages of record on real or personal property in the state;

(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(n) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) subject to subsection (2)(e), property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(p) property rented or leased to a municipality or taxing unit for less than $100 a year and that is used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(c) For the purposes of subsection (1)(i):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-202.

History: En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L. 1975; amd.

Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492, L. 1977; amd. Sec. 2, Ch. 576, L. 1977; R.C.M. 1947, 84-202(1), (3), (8); amd. Sec. 1, Ch. 508, L. 1979; amd. Sec. 1, Ch. 616, L. 1979; amd. Sec. 1, Ch. 639, L. 1979; amd. Sec. 21, Ch. 712, L. 1979; amd. Sec. 1, Ch. 478, L. 1981; amd. Sec. 11, Ch. 614, L. 1981; amd. Sec. 1, Ch. 170, L. 1983; amd. Sec. 2, Ch. 323, L. 1983; amd. Sec. 1, Ch. 523, L. 1983; amd. Sec. 2, Ch. 463, L. 1985; amd. Sec. 5, Ch. 516, L. 1985; amd. Sec. 1, Ch. 455, L. 1987; amd. Sec. 1, Ch. 545, L. 1987; amd. Sec. 1, Ch. 556, L. 1987; amd. Sec. 5, Ch. 611, L. 1987; amd. Sec. 2, Ch. 649, L. 1987; amd. Sec. 2, Ch. 59, L. 1989; amd. Sec. 3, Ch. 576, L. 1989; amd. Sec. 1, Ch. 617, L. 1989; amd. Sec. 3, Ch. 713, L. 1989; amd. Sec. 1, Ch. 71, L. 1991; amd. Sec. 1, Ch. 123, L. 1991; amd. Sec. 1, Ch. 271, L. 1991; amd. Sec. 1, Ch. 467, L. 1991; amd. Sec. 9, Ch. 783, L. 1991; amd. Sec. 1, Ch. 54, L. 1993; amd. Sec. 1, Ch. 80, L. 1993; amd. Sec. 2, Ch. 575, L. 1993; amd. Sec. 1, Ch. 88, L. 1995; amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 2, Ch. 257, L. 1995; amd. Sec. 40, Ch. 418, L. 1995; amd. Sec. 43, Ch. 546, L. 1995; amd. Sec. 1, Ch. 585, L. 1995; amd. Sec. 3, Ch. 121, L. 1997; amd. Sec. 13, Ch. 472, L. 1997; amd. Sec. 3, Ch. 496, L. 1997; amd. Sec. 13, Ch. 285, L. 1999; amd. Sec. 1, Ch. 438, L. 1999; amd. Sec. 5, Ch. 515, L. 1999; amd. Sec. 1, Ch. 539, L. 1999; amd. Sec. 3, Ch. 555, L. 1999; amd. Sec. 84, Ch. 584, L. 1999; amd. Sec. 3, Ch. 11, Sp. L. May 2000; amd. Sec. 2, Ch. 438, L. 2001; amd. Sec. 2, Ch. 577, L. 2003; amd. Secs. 4, 10, Ch. 606, L. 2003; amd. Sec. 1, Ch. 2, L. 2005; amd. Sec. 2, Ch. 531, L. 2005; amd. Sec. 3, Ch. 532, L. 2005; amd. Sec. 7, Ch. 542, L. 2005; amd. Sec. 7, Ch. 563, L. 2005; amd. Sec. 3, Ch. 584, L. 2005; amd. Sec. 35, Ch. 286, L. 2009; amd. Sec. 1, Ch. 278, L. 2011; amd. Sec. 1, Ch. 405, L. 2013; amd. Sec. 1, Ch. 366, L. 2015; amd. Sec. 2, Ch. 407, L. 2017; amd. Sec. 1, Ch. 421, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 421, L. 2025. Amendment effective May 5, 2025.

Retroactive Applicability: Section 4, Ch. 421, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024."

Cross-References

Legislature to enact laws to enhance and develop agriculture, Art. XII, sec. 1, Mont. Const.
Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.
Taxation of state property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 12.
Privilege tax on gainful use of tax-exempt property, 15-24-1204 through 15-24-1206.
Federal sums in lieu of tax, Title 17, ch. 3, part 3.
Exemption of property in certain cities from county library tax, 22-1-313.
Exemption of cemetery association property, 35-20-217.
Motorcycle defined, 61-1-101.
Quadricycle defined, 61-1-101.
Property acquired by municipality for airport purposes exempt, 67-10-406.
Property acquired by airport authority for airport purposes exempt, 67-11-306.
Land purchased from state or irrigation district subject to taxation, 77-2-313.
Reversion of land purchased from state exempt, 77-2-314.
Exemption for irrigation district property, 85-7-2011.
Yellowstone River Compact does not subject United States property to taxation, 85-20-101.
Land owned by Department of Fish, Wildlife, and Parks subject to taxation, 87-1-603.
Certain industrial development projects not exempt, 90-5-110.

15-6-202. Freeport merchandise and business inventories exemption — definitions. (1) Freeport merchandise and business inventories are exempt from taxation.

(2) (a) "Freeport merchandise" means stocks of merchandise manufactured or produced outside this state that are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state for storage in transit prior to shipment to a final destination outside the state and that have acquired a taxable situs within the state.

(b) Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged.

(c) A person seeking to qualify the person's property as freeport merchandise shall make application to the department in the manner prescribed by the department.

(3) (a) "Business inventories" include goods primarily intended for sale and not for lease in the ordinary course of business and raw materials and work in progress with respect to those goods. Except for farm implements and construction equipment described in subsection (3)(b), business inventories do not include goods that are leased or rented.

(b) Business inventories include farm implements as defined in 30-11-801 or construction equipment as defined in 30-11-901 that are held pursuant to a purchase incentive rental program.

(4) (a) For the purpose of subsection (3)(b), "purchase incentive rental program" means a program operated by a dealer of farm implements as defined in 30-11-801 or a dealer of construction equipment as defined in 30-11-901 under which the farm implement or construction

equipment is owned by the dealership, held for sale, and rented to a single user of the farm implement or construction equipment as an incentive for the purchase of the property.

(b) A purchase incentive rental program does not include a farm implement or construction equipment that is:

(i) rented to a person for more than 9 months;

(ii) rented more than once to the same person; or

(iii) not owned by a farm implement dealership or construction equipment dealership.

(c) All farm implements and construction equipment in a purchase incentive rental program must be reported to the department no later than March 31 of each year on a form provided by the department.

History: **En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L. 1975; amd. Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492, L. 1977; amd. Sec. 2, Ch. 576, L. 1977; R.C.M. 1947, 84-202(4); amd. Sec. 2, Ch. 613, L. 1981; amd. Sec. 3, Ch. 599, L. 1983; amd. Sec. 1, Ch. 99, L. 1995; amd. Sec. 2, Ch. 343, L. 2009; amd. Sec. 1, Ch. 86, L. 2021.**

15-6-203. Veterans' exemptions — clubhouse — land — incompetent veterans' trusts. (1) (a) There is an exemption from taxation for a clubhouse, building, or land owned, rented, leased, or used primarily:

(i) by any society or organization of honorably discharged United States military personnel; and

(ii) for educational, fraternal, benevolent, or purely public charitable purposes rather than for gain or profit.

(b) The clubhouse or building exemption provided for in this section applies:

(i) to the personal property necessarily used in the building; and

(ii) even if a business, intended primarily for the use of the members, is required to be open to the public and is operated in a portion of the building.

(c) If property exempt under this subsection (1) is owned by someone other than the society or organization, the savings from the property tax exemption must be realized by the society or organization.

(2) All property, real or personal, in the possession of legal guardians of incompetent veterans of U.S. military service or minor dependents of the veterans, when the property is funds or derived from funds received from the United States as pension, compensation, insurance, adjusted compensation, or gratuity, is exempt from all taxation as property of the United States while held by the guardian, but not after title passes to the veteran or minor in the minor's own right on account of removal of legal disability.

History: **En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L. 1975; amd. Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492, L. 1977; amd. Sec. 2, Ch. 576, L. 1977; R.C.M. 1947, 84-202(2); amd. Sec. 1, Ch. 204, L. 1999; amd. Sec. 1, Ch. 107, L. 2011; amd. Sec. 1, Ch. 249, L. 2017.**

Cross-References

Special considerations allowed service personnel and veterans, Art. II, sec. 35, Mont. Const.

15-6-204. Money and credits exemption. (1) Money and credits are exempt from taxation.

(2) Money and credits are, for the purposes of this section, all money and all credits secured and unsecured, including all state, county, school district, and other municipal bonds, warrants, and securities, without any deduction or offset.

History: **(1)En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L.**

1975; amd. Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492, L. 1977; amd. Sec. 2, Ch. 576, L. 1977; Sec. 84-202, R.C.M. 1947; (2)En. Sec. 1, Ch. 64, L. 1929; re-en. Sec. 2000.1, R.C.M. 1935; Sec. 84-303, R.C.M. 1947; R.C.M. 1947, 84-202(6), 84-303; amd. Sec. 8, Ch. 532, L. 2005.

Cross-References

Definition of credit, 15-1-101.
Money capital and shares of banks exempt, 15-31-703.
Definition of school district, 20-15-403.

15-6-205. State water conservation projects exempt. All lands acquired and held by the department of natural resources and conservation or the state of Montana for use in connection with water conservation projects constructed or to be constructed under the laws of this state are exempt from taxation, and the county treasurer shall cancel all taxes remaining unpaid on the land for the year in which the land is acquired and for all previous years. The taxes may be canceled only if a tax certificate has not been issued or, if a tax certificate has been issued, it was issued to the county and an assignment of the certificate of sale has not been made by the county prior to the time that the land was acquired by the department.

History: En. Sec. 1, Ch. 114, L. 1937; R.C.M. 1947, 84-203; amd. Sec. 9, Ch. 532, L. 2005.

15-6-206. Irrigation and drainage facilities — when exempt. (1) All irrigation and drainage facilities, including bonds, rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply and where an increase in land value results, such facilities shall be taxed as such land is improved and such land shall be classified for tax purposes as the tax classification law provides.

(2) Sprinkler irrigation systems are exempt from taxation. Such systems include all pipes, hoses, rollers, spray attachments, connectors, pumps, and other items integral to the functioning of a sprinkler irrigation system installed and used on a farm or ranch but exclude underground water distribution lines and other elements of the system sufficiently affixed to land that they become real property.

History: (1)En. Sec. 1, Ch. 193, L. 1965; R.C.M. 1947, 84-206; (2)En. Sec. 1, Ch. 695, L. 1979; MCA 1981, 15-6-212(2); redes. 15-6-206(2) by Code Commissioner, 1983.

Cross-References

Legislature to enact laws to enhance and develop agriculture, Art. XII, sec. 1, Mont. Const.
Exemption for irrigation district property, 85-7-2011.

15-6-207. Agricultural producer exemptions — products — unused beet equipment — low-value buildings, implements, and machinery. (1) The following agricultural products are exempt from taxation:

(a) all unprocessed agricultural products on the farm or in storage and owned by the producer;

(b) all producer-held grain in storage;

(c) all unprocessed agricultural products;

(d) all livestock and the unprocessed products of livestock;

(e) poultry and the unprocessed products of poultry;

(f) bees and the unprocessed product of bees; and

(g) biological control insects.

(2) Any beet digger, beet topper, beet defoliator, beet thinner, beet cultivator, beet planter, or beet top saver designed exclusively to plant, cultivate, and harvest sugar beets is exempt from taxation if the implement has not been used to plant, cultivate, or harvest sugar beets for the 2 years immediately preceding the current assessment date and there are no available sugar beet contracts in the sugar beet grower's marketing area.

(3) All farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100 are exempt from taxation.

History: En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L. 1975; amd. Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492,

L. 1977; amd. Sec. 2, Ch. 576, L. 1977; R.C.M. 1947, 84-202(5); amd. Sec. 8, Ch. 663, L. 1979; amd. Sec. 3, Ch. 570, L. 1985; amd. Sec. 1, Ch. 627, L. 1985; amd. Sec. 2, Ch. 660, L. 1987; amd. Sec. 5, Ch. 598, L. 1989; amd. Sec. 38, Ch. 27, Sp. L. November 1993; amd. Sec. 5, Ch. 576, L. 1995; amd. Sec. 14, Ch. 285, L. 1999; amd. Sec. 3, Ch. 577, L. 2003; amd. Sec. 10, Ch. 532, L. 2005.

Cross-References

Legislature to enact laws to enhance and develop agriculture, Art. XII, sec. 1, Mont. Const.

Definition of agricultural, 15-1-101.

15-6-208. Mineral exemptions — small coal or metal mines producer — travertine — bentonite. (1) One-half of the contract sales price of coal sold by a coal producer who extracts less than 50,000 tons of coal in a calendar year is exempt from taxation.

(2) Metal mines producing less than 20,000 tons of ore in a taxable year are exempt from property taxation on one-half of the merchantable value.

(3) The first 1,000 tons of travertine and building stone extracted from a mine in a tax year are exempt from property taxation.

(4) Bentonite extracted from a mine is exempt from property taxation.

History: (1)En. Sec. 2, p. 73, L. 1891; re-en. Sec. 3671, Pol. C. 1895; re-en. Sec. 2499, Rev. C. 1907; amd. Sec. 1, Ch. 97, L. 1911; amd. Sec. 1, Ch. 24, L. 1919; re-en. Sec. 1998, R.C.M. 1921; Cal. Pol. C. Secs. 3607 and 3611; amd. Sec. 1, Ch. 98, L. 1931; re-en. Sec. 1998, R.C.M. 1935; amd. Sec. 1, Ch. 85, L. 1965; amd. Sec. 1, Ch. 266, L. 1973; amd. Sec. 1, Ch. 361, L. 1973; amd. Sec. 1, Ch. 376, L. 1974; Clarified Sec. 1, Ch. 8, L. 1975; amd. Sec. 1, Ch. 325, L. 1975; amd. Sec. 1, Ch. 341, L. 1975; amd. Sec. 1, Ch. 442, L. 1975; amd. Sec. 3, Ch. 507, L. 1975; amd. Sec. 7, Ch. 548, L. 1975; amd. Sec. 2, Ch. 52, L. 1977; amd. Sec. 1, Ch. 87, L. 1977; amd. Sec. 2, Ch. 112, L. 1977; amd. Sec. 2, Ch. 126, L. 1977; amd. Sec. 2, Ch. 393, L. 1977; amd. Sec. 1, Ch. 413, L. 1977; amd. Sec. 1, Ch. 492, L. 1977; amd. Sec. 2, Ch. 576, L. 1977; Sec. 84-202, R.C.M. 1947; (2)En. 84-212 by Sec. 6, Ch. 498, L. 1977; Sec. 84-212, R.C.M. 1947; R.C.M. 1947, 84-202(7), 84-212; amd. Sec. 1, Ch. 303, L. 1983; amd. Sec. 7, Ch. 655, L. 1987; amd. Sec. 1, Ch. 89, L. 1993; amd. Sec. 1, Ch. 9, Sp. L. November 1993; amd. Sec. 28, Ch. 451, L. 1995; amd. Sec. 13, Ch. 559, L. 2005.

Cross-References

Coal severance tax exemption, 15-35-103.

15-6-209. Community services buildings exempt. (1) The building and appurtenant land, not exceeding 3 acres, owned by a nonprofit community service organization is exempt from property taxation, except as provided in subsections (4) and (5), if the organization:

(a) is a lodge of a nationally recognized fraternal organization;

(b) (i) furnishes services to senior citizens in the form of daytime or evening educational or recreational activities that are recognized in the state plan on aging adopted by the department of public health and human services; and

(ii) does not furnish living accommodations to senior citizens; or

(c) primarily furnishes facilities without charge, except that a minimal fee may be charged for janitorial services, for public meetings and entertainments.

(2) An applicant for exemption under this section shall demonstrate that it has been an active community service organization continuously from January 1, 1981.

(3) A community service organization exempted under this section may sell food and beverages under license from the state.

(4) A building and land exempted under this section must be appraised, assessed, and subject to levies for any special improvement district if the special improvement directly benefits the building or land.

(5) The exemption provided under this section may not be extended to any property owned by a community service organization described in this section that is leased in whole or in part to any person for business or profitmaking purposes.

History: En. 84-202.1 by Sec. 1, Ch. 491, L. 1977; R.C.M. 1947, 84-202.1; amd. Sec. 1, Ch. 423, L. 1981; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 44, Ch. 546, L. 1995; amd. Sec. 1, Ch. 166, L. 1997.

15-6-210. Repealed. Sec. 12, Ch. 453, L. 1987.

History: En Sec. 1, Ch. 229, L. 1979.

15-6-211. Repealed. Sec. 31, Ch. 361, L. 2015.

History: En. Sec. 11, Ch. 693, L. 1979; amd. Sec. 1, Ch. 590, L. 1981; amd. Sec. 1, Ch. 594, L. 1987; amd. Sec. 1, Ch. 301, L. 1997; amd. Sec. 6, Ch. 399, L. 2003; amd. Sec. 1, Ch. 418, L. 2007; amd. Sec. 2, Ch. 6, L. 2009.

15-6-212. Repealed. Sec. 315, Ch. 42, L. 1997.

History: En. Sec. 1, Ch. 695, L. 1979; Sec. 15-6-212(2), MCA 1981; redes. 15-6-206(2) by Code Commissioner, 1983.

15-6-213. Down-hole equipment in oil and gas wells exempt. All down-hole equipment in oil and gas wells is exempt from taxation.

History: En. Sec. 2, Ch. 583, L. 1985.

Cross-References

Oil and gas machinery and equipment taxed as class eight, 15-6-138.

Right of entry to explore for oil and gas — exemption, 15-6-201.

15-6-214. Terminated. Sec. 3, Ch. 560, L. 1987.

History: En. Sec. 1, Ch. 560, L. 1987; amd. Sec. 7, Ch. 83, L. 1989.

15-6-215. Exemption for motion picture and television commercial property. Except as provided in 15-24-305 and 61-3-520, all property, including vehicles, brought into the state or otherwise used for the exclusive purpose of filming motion pictures or television commercials is exempt from property taxation and registration fees under 61-3-321(2), provided that the property does not remain in the state for a period in excess of 180 consecutive days in a calendar year.

History: En. Sec. 1, Ch. 525, L. 1989; amd. Sec. 6, Ch. 515, L. 1999; amd. Sec. 8, Ch. 542, L. 2005.

Cross-References

Taxation of motion picture and television commercial property, 15-24-305.

Taxation of vehicles used exclusively in filming motion pictures or television commercials, 61-3-520.

15-6-216. Exemption of improvements made to commercial buildings to remove barriers to persons with disabilities. (1) Any additional value associated with specific improvements made to an existing or new commercial building, after December 31, 1995, for the purpose of removing barriers to the movement, safety, or comfort of a person with a disability may not increase the taxable valuation of the building.

(2) A person shall apply for an exemption under this section by March 1 of the tax year for which the exemption is sought, on a form provided by the department of revenue, setting forth the nature of the improvement, the date on which the improvement was completed, and any other information that the department may require.

(3) For the purposes of this section, improvements for the removal of barriers include:

(a) permanent ramps leading to entrances to the premises and between levels of the premises;

(b) elevators installed for the use of a person with a disability;

(c) handrails installed in and about the premises, indoors and outdoors;

(d) enlarged bathrooms and kitchens and any special equipment installed in them for the benefit of a person with a disability; and

(e) other reasonable accommodations made for the safety, convenience, and comfort of a person with a disability.

History: En. Sec. 1, Ch. 472, L. 1995.

15-6-217. Exemption for vehicle of certain health care professionals. A motor vehicle that is brought, driven, or coming into this state is exempt from the registration fees imposed in 15-24-301 if the motor vehicle is registered in another state or country by a nonresident person who is a licensed health care professional, as provided in Title 37, chapter 3, 8, 11, 14, 20, 25, 28, or 34, and who is employed in Montana by a rural health care facility that is located in an area that has been:

(1) designated by the secretary of the federal department of health and human services as a health professional shortage area, as provided in 42 U.S.C. 254(e); or

(2) determined to have a critical shortage of nurses, as provided in 42 U.S.C. 297n(a)(3).

History: En. Sec. 2, Ch. 246, L. 1999; amd. Sec. 1, Ch. 436, L. 2001; amd. Sec. 2, Ch. 224, L. 2003.

15-6-218. Intangible personal property exemption. (1) Intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissory notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill.

(3) To the extent that the unit value of centrally assessed property includes intangible personal property, that value must be removed from the unit value.

History: En. Sec. 1, Ch. 583, L. 1999; amd. Sec. 1, Ch. 318, L. 2005.

15-6-219. *(Temporary)* **Personal and other property exemptions.** (1) The following categories of property are exempt from taxation:

(a) harness, saddlery, and other tack equipment;

(b) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(c) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(d) a bicycle or a moped, as defined in 61-8-102, used by the owner for personal transportation purposes;

(e) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than $15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly basis;

(f) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(g) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(h) air and water pollution control and carbon capture equipment, as defined in 15-6-135, placed in service after January 1, 2014;

(i) a housetrailer, manufactured home, or mobile home that receives an exemption from the department based on abandonment, as provided in 15-6-242;

(j) fiber optic or coaxial cable, as defined in 15-6-156, installed and placed in service on or after July 1, 2021, and wireless infrastructure, as defined in 15-6-156, placed in service on or after July 1, 2025, for a period of 5 years starting from the date placed in service as provided in 15-6-156, if the owner of fiber optic or coaxial cable or wireless infrastructure reinvests the tax savings from the exemption by installing and placing in service new fiber optic or coaxial cable or wireless infrastructure in Montana within 2 years from the date the owner first claimed the exemption provided for in this subsection (1)(j) without charging those costs to the consumer. The cost of installing or placing into service fiber optic or coaxial cable or wireless infrastructure with the reinvested tax savings without charging those costs to the consumer must be equal to or greater than the value of the tax savings received from the tax incentive. An entity that claims a tax exemption under this subsection (1)(j) shall maintain adequate books and records demonstrating the investment the owner made when installing and placing in service fiber optic or coaxial cable or wireless infrastructure in Montana. The property owners shall make those records available to the department for inspection on request.

(k) personal property used in the manufacture of ammunition components as provided in 30-20-207.

(2) (a) The property taxes exempted from taxation by subsection (1)(j) are subject to termination or recapture if the department determines that the owner failed to install and place in service new coaxial or fiber cable or wireless infrastructure in Montana as provided for in subsection (1)(j) or otherwise violates the provisions of this section.

(b) On notice from the department that the owner's exemption has terminated, any local governing body may recapture taxes previously exempted in that jurisdiction, plus interest and

penalties for nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar year in which the exemption was first claimed.

(c) The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer. *(Terminates December 31, 2035—sec. 11, Ch. 675, L. 2025.)*

15-6-219. *(Effective January 1, 2036)* **Personal and other property exemptions.** (1) The following categories of property are exempt from taxation:

(a) harness, saddlery, and other tack equipment;

(b) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(c) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(d) a bicycle or a moped, as defined in 61-8-102, used by the owner for personal transportation purposes;

(e) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than $15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly basis;

(f) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(g) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(h) air and water pollution control and carbon capture equipment, as defined in 15-6-135, placed in service after January 1, 2014;

(i) a housetrailer, manufactured home, or mobile home that receives an exemption from the department based on abandonment, as provided in 15-6-242; and

(j) fiber optic or coaxial cable, as defined in 15-6-156, installed and placed in service on or after July 1, 2021, and wireless infrastructure, as defined in 15-6-156, placed in service on or after July 1, 2025, for a period of 5 years starting from the date placed in service as provided in 15-6-156, if the owner of fiber optic or coaxial cable or wireless infrastructure reinvests the tax savings from the exemption by installing and placing in service new fiber optic or coaxial cable or wireless infrastructure in Montana within 2 years from the date the owner first claimed the exemption provided for in this subsection (1)(j) without charging those costs to the consumer. The cost of installing or placing into service fiber optic or coaxial cable or wireless infrastructure with the reinvested tax savings without charging those costs to the consumer must be equal to or greater than the value of the tax savings received from the tax incentive. An entity that claims a tax exemption under this subsection (1)(j) shall maintain adequate books and records demonstrating the investment the owner made when installing and placing in service fiber optic or coaxial cable or wireless infrastructure in Montana. The property owners shall make those records available to the department for inspection on request.

(2) (a) The property taxes exempted from taxation by subsection (1)(j) are subject to termination or recapture if the department determines that the owner failed to install and place in service new coaxial or fiber cable or wireless infrastructure in Montana as provided for in subsection (1)(j) or otherwise violates the provisions of this section.

(b) Upon notice from the department that the owner's exemption has terminated, any local governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar year in which the exemption was first claimed.

(c) The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 19, Ch. 532, L. 2005; amd. Sec. 1, Ch. 295, L. 2009; amd. Sec. 1, Ch. 374, L. 2015; amd. Sec. 3, Ch. 407, L. 2015; amd. Sec. 7, Ch. 440, L. 2015; amd. Sec. 1, Ch. 230, L. 2019; amd. Sec. 3, Ch. 483, L. 2021; amd. Sec. 3, Ch. 620, L. 2025; amd. Sec. 4, Ch. 675, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 3, Ch. 620, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 4, Ch. 675, L. 2025. Amendment effective May 13, 2025, and terminates December 31, 2035.

Applicability — Retroactive Applicability: Section 6, Ch. 620, L. 2025, provided: "[This act] applies to fiber optic or coaxial cable and wireless infrastructure placed in service on or after [the effective date of this act]." Effective July 1, 2025.

Section 10, Ch. 675, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 2025."

15-6-220. Agricultural processing facilities exemption. (1) The following property is exempt from property taxation:

(a) machinery and equipment used in an oilseed processing facility;

(b) machinery and equipment used in a malting barley facility;

(c) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

(d) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility;

(e) machinery and equipment used in a pulse processing facility; and

(f) machinery and equipment used in a hemp processing facility.

(2) "Hemp processing facility" means a facility and integral machinery and equipment placed into production after December 31, 2019, used principally to process hemp in accordance with a license issued by the department of agriculture under Title 80, chapter 18.

(3) "Industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(4) "Industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(5) "Malting barley facility" means a facility and integral machinery and equipment used principally to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process the barley and malt at the facility.

(6) "Oilseed" means camelina, canola, flax, mustard, rapeseed, safflower, sunflower, and soybean.

(7) "Oilseed processing facility" means a facility that extracts oil from oilseeds, refines the crude oil to produce edible oil, formulates and packages the edible oil into food products, or engages in any one or more of these processes.

(8) "Pulse crops" means dry peas, lentils, chickpeas, and fava beans.

(9) "Pulse processing facility" means a facility and integral machinery and equipment placed into service after December 31, 2017, and used principally to process pulse crops. The term includes machinery and equipment used to mix, split, transport within the facility, transfer, extract protein from, dry, or handle any pulse crop. *(Subsections (1)(e), (8), and (9) terminate December 31, 2027—sec. 3, Ch. 383, L. 2017; subsections (1)(f) and (2) terminate December 31, 2029—sec. 3, Ch. 290, L. 2019.)*

History: En. Sec. 2, Ch. 285, L. 1999; amd. Sec. 11, Ch. 532, L. 2005; amd. Sec. 1, Ch. 383, L. 2017; amd. Sec. 1, Ch. 290, L. 2019; amd. Sec. 1, Ch. 430, L. 2021.

15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants. (1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) (i) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability company, or limited liability partnership in which a general partner or limited liability company member is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3), as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in 7-15-4402 and the nonprofit general partner or limited liability company member actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

(ii) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner under 26 U.S.C. 42;

(iii) a deed restriction or other legally binding instrument restricts the property's usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

(iv) the property meets a public purpose in providing housing to an underserved population; and

(v) the owner's partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner or limited liability company member as provided for in 26 U.S.C. 42(i)(7); or

(b) the property is owned and operated by a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) and was constructed using a home investment partnerships program grant.

(2) (a) Prior to applying to the department for the tax exemption provided for in this section, the unit of local government where the proposed project is to be located shall publish notice:

(i) as provided in 7-1-2121 if the governing body is a county commission; or

(ii) as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council.

(b) The unit of local government shall hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need.

(c) A record of the public hearing must be forwarded to the board of housing.

(3) (a) A party satisfies the nonprofit partner or limited liability company member requirement of subsection (1)(a)(i) if it is a single-member limited liability company that is fully owned and controlled by a nonprofit corporation described in subsection (1)(a)(i).

(b) A property must be considered to be owned and operated by an entity as described in subsection (1)(a)(i) if it is occupied by the entity as a lessee under a long-term lease exceeding 49 years in length under which most benefits and burdens of ownership during the lease term have shifted to the lessee, including the obligation to pay property taxes.

(c) If a residential rental property is an integral part of a combination of two properties that when combined make up a single commonly operated residential rental property, the qualifications for both properties under subsection (1)(a)(ii) must be measured collectively with reference to the units located on both properties if:

(i) the beneficial ownership of the entities described in subsection (1)(a)(i) for both properties are substantially identical; and

(ii) all other requirements of both parties under this section are met.

History: En. Sec. 1, Ch. 452, L. 1999; amd. Sec. 22, Ch. 2, L. 2009; amd. Sec. 1, Ch. 446, L. 2019; amd. Sec. 1, Ch. 251, L. 2021; amd. Sec. 6, Ch. 272, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 272, L. 2025. Amendment effective October 1, 2025.

15-6-222. Repealed. Sec. 31, Ch. 361, L. 2015.
History: En. Sec. 5, Ch. 532, L. 2005; amd. Sec. 5, Ch. 483, L. 2009.

15-6-223. Timber exemption. Timber, as defined in 15-44-102, is exempt from taxation.
History: En. Sec. 7, Ch. 532, L. 2005.

15-6-224. Nonfossil energy generation. The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low-emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:
(1) $20,000 in the case of a single-family residential dwelling;
(2) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure.
History: En. Sec. 12, Ch. 532, L. 2005.

15-6-225. Small electrical generation equipment exemption. (1) (a) Machinery and equipment used in a qualifying generation facility that has a nameplate capacity of less than 1 megawatt of electrical energy are exempt from taxation for 5 years after the generation of electricity begins.
(b) To qualify for the exemption under this section, the generation facility must be powered by an alternative renewable energy source.
(2) For the purposes of this section:
(a) "alternative renewable energy source" means a form of energy or matter that is capable of being converted into forms of energy useful to humanity, including electricity, and the technology necessary to make this conversion when the source is not exhaustible in terms of this planet and when the source or technology is not in general commercial use. The term includes but is not limited to:
(i) solar energy;
(ii) wind energy;
(iii) geothermal energy;
(iv) conversion of biomass;
(v) fuel cells that do not require hydrocarbon fuel;
(vi) small hydroelectric generators producing less than 1 megawatt; or
(vii) methane from solid waste.
(b) "generation facility" includes any combination of a generator or generators, associated prime movers, and other associated machinery and equipment that are normally operated together to produce electric power, but does not include the owner's business improvements and personal property.
History: En. Sec. 6, Ch. 591, L. 2001; amd. Sec. 1, Ch. 405, L. 2003; amd. Sec. 1, Ch. 524, L. 2003; amd. Sec. 151, Ch. 56, L. 2009.
Cross-References
Geothermal research, 90-3-1301.

15-6-226. Terminated. Sec. 5, Ch. 579, L. 2001.
History: En. Sec. 1, Ch. 579, L. 2001.

15-6-227. Property on railroad land leased by nonprofit organizations. (1) A building and appurtenant land or just the appurtenant land, not exceeding 2.5 acres, owned by a railroad as defined in 69-14-102 and leased for less than $100 a year to a nonprofit organization exempt from taxation under section 26 U.S.C. 501(c)(3) or to a government entity is exempt from property taxation if:
(a) the building was constructed on a railroad right-of-way by a railroad prior to the year 2000; and
(b) the property is directly used for purely public charitable purposes.
(2) A building and land exempted under this section are subject to fees and assessments for services and special improvements that are collected with property taxes.
History: En. Sec. 1, Ch. 370, L. 2003; amd. Sec. 3, Ch. 104, L. 2015.

15-6-228. Property subject to registration fee. The following property that is subject to a registration fee is exempt from property taxation:
(1) truck canopy covers or toppers and campers;
(2) motor homes;

(3) all watercraft;

(4) all trailers, semitrailers, pole trailers, and travel trailers as those terms are defined in 61-1-101;

(5) all vehicles registered under 61-3-456;

(6) (a) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(b) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (6)(a);

(7) motorcycles and quadricycles; and

(8) light vehicles as defined in 61-1-101.

History: En. Sec. 4, Ch. 532, L. 2005; amd. Sec. 245, Ch. 542, L. 2005.

15-6-229. Exemption for land adjacent to transmission line right-of-way easement — application — limitations. (1) Subject to the conditions of this section, for tax years beginning after December 31, 2007, there is allowed an exemption from property taxes for land that is within 660 feet on either side of the midpoint of a transmission line right-of-way or easement.

(2) (a) An owner or operator of a transmission line shall apply to the department for an exemption under this section on a form provided by the department. The application must include a legal description and a digitized certificate of survey prepared by a surveyor registered with the board of professional engineers and professional land surveyors provided for in 2-15-1763 of the property in the county for which the exemption is sought and other information required by the department. A separate application must be made for each county in which an exemption is sought.

(b) An application for an exemption that would be in effect for the tax year and subsequent tax years must be filed with the department by March 1 in the tax year that the exemption is sought.

(3) (a) The owner or operator of a transmission line shall inform the department of any change in ownership of the land or other circumstances that may affect the eligibility of the land for the exemption. The department shall determine whether any changes have occurred that affect the eligibility of the land for the exemption.

(b) The exemption allowed under this section does not apply to:

(i) the boundaries of an incorporated or unincorporated city or town;

(ii) a platted and filed subdivision;

(iii) tracts of land used for residential, commercial, or industrial purposes; or

(iv) the 1 acre of land beneath improvements on land described in 15-6-133(1)(c) and 15-7-206(2).

(4) For the purposes of this section, "transmission line" means an electric line with a design capacity of 30 megavoltamperes or greater that is constructed after January 1, 2007.

History: En. Sec. 9, Ch. 2, Sp. L. May 2007.

15-6-230. Temporary exemption for certain tribal property — rulemaking. (1) Subject to subsections (2) and (3), property owned in fee by a federally recognized Indian tribe located within the boundaries of the state of Montana is temporarily exempt from taxation on January 1 after the following conditions are met:

(a) the United States department of the interior, bureau of Indian affairs, has determined that the initial written request or trust application submitted by the tribe is complete; and

(b) the tribe has submitted a timely property tax exemption application to the department and the department has approved the tribe's exemption application.

(2) Prior to approving the exemption application, the department shall notify the county in which the property is located. On approval of an exemption pursuant to this section, the department shall provide the approved application to the county in which the property is located.

(3) The temporary exemption applies only for the timeframe during which a decision on the trust application is officially pending before the United States department of interior, bureau of Indian affairs, but the exemption may not exceed a period of 5 years and ceases earlier if the United States denies the trust application.

(4) For tax years following the department's approval of the exemption, the tribe shall annually certify to the department that the trust application is still under consideration by the United States department of interior, bureau of Indian affairs, and has not been denied. The exemption applies only for tax years for which the department has received a timely certification from the affected tribe. The department shall provide the annual certification to the county in which the property is located.

(5) If a trust application has been denied, the temporary exemption expires on December 31 of the year in which the trust application was denied. The temporary exemption is no longer available for property associated with a trust application that has been denied.

(6) (a) Property for which a trust application is denied or for which the 5-year exemption period expires and the trust application remains pending before the United States department of the interior, bureau of Indian affairs, is subject to a recapture of property taxes. The recaptured tax is equal to the tax that would have been assessed using the tax rates, the mill levies, and the appraised value for each year in which the property was exempt under this section. The department shall provide the taxable value to the county treasurer for collection of taxes subject to recapture.

(b) The department shall continue to appraise property granted an exemption under this section until a trust application is approved by the United States department of the interior, bureau of Indian affairs. The appraised value is only for use for calculating the recapture provided for in this section and may not be included in the taxable value provided to taxing jurisdictions.

(7) If the United States takes tribally owned property out of trust, the property is subject to tax as otherwise provided by federal and state law.

(8) The department may adopt rules to implement the provisions of this section.

History: En. Secs. 1, 2, Ch. 288, L. 2011; amd. Sec. 1, Ch. 423, L. 2021.

15-6-231. Terminated. Sec. 8, Ch. 372, L. 2015.

History: En. Sec. 1, Ch. 372, L. 2015; amd. Sec. 26, Ch. 142, L. 2021.

15-6-232. Terminated. Sec. 8, Ch. 372, L. 2015.

History: En. Sec. 2, Ch. 372, L. 2015; amd. Sec. 8, Ch. 163, L. 2019.

15-6-233. Terminated. Sec. 8, Ch. 372, L. 2015.

History: En. Sec. 3, Ch. 372, L. 2015.

15-6-234. Duty to report change in use. Owners of property that is exempt from property taxation shall report a change in use of all or part of the property to the department within 30 days of the change in use.

History: En. Sec. 4, Ch. 372, L. 2015.

15-6-235. New property tax exemptions — department notification to local governments. The department shall notify the county treasurer by written or electronic means when it makes a determination that previously taxable property within a county qualifies for a property tax exemption. The department may provide additional notification to a taxing authority that requests notification from the department.

History: En. Sec. 1, Ch. 407, L. 2017.

15-6-236 reserved.

15-6-237. Periodic review of exempt property — rulemaking. (1) The department shall administer a program for the review of property that is exempt from taxation under Title 15, chapter 6, part 2, as provided in this section.

(2) The review process must provide for the review of all exempt property for which an application to the department is required at least once every 8 years.

(3) The department shall report to the revenue interim committee biennially in accordance with 5-11-210 information on exempt property reviewed during the biennium, including:

(a) the number of properties reviewed;

(b) the types of exemptions reviewed;

(c) the number of exemptions granted and denied; and

(d) the estimated market value and taxable value of exemptions granted and denied.

(4) The department may adopt rules to implement the exempt property review process provided for in this section.

History: En. Sec. 1, Ch. 14, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

Cross-References

Clearinghouse for reports to Legislature, 5-11-210.

Reports to Legislature, 5-11-222.

15-6-238. Public information on exempt property. (1) The department shall maintain public information about real property that is exempt from property taxation under Title 15, chapter 6, part 2, and for which an application to the department is required.

(2) The public information must include a map of tax-exempt parcels that is organized by county and type of exemption and include the following information:

(a) the county in which the exempt real property is located;

(b) the name of the owner or entity utilizing the exemption;

(c) the mailing address of the owner or entity utilizing the exemption;

(d) the exempt real property's legal description and total exempt area, including the square footage or acreage of the parcel and the square footage of any buildings;

(e) the property address of the exempt real property;

(f) the type of exemption; and

(g) any additional information considered relevant by the department.

History: En. Sec. 2, Ch. 14, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

15-6-239 reserved.

15-6-240. Intangible land value property exemption — application procedure. (1) There is an intangible land value assistance program that provides graduated levels of property tax exemptions to assist owners of primary residences with land values that are disproportionate to the value of a primary residence and improvements. To be eligible for the exemption, applicants must meet the requirements of this section.

(2) If the total appraised value of the land is equal to or less than 150% of the appraised value of the primary residence and improvements situated on the land, then the land exemption provided in this section does not apply.

(3) Subject to subsection (6), if the total appraised value of the land is greater than 150% of the appraised value of the primary residence and improvements situated on the land, then the land is valued at 150% of the appraised value of the primary residence and improvements situated on the land, subject to the minimum equalization of value requirement in subsection (4), and the remainder of the land value is exempt from taxation.

(4) If the calculation in subsection (3) creates a land value that is less than the statewide average value of land, then the value of the land may not be reduced in an amount that is less than the statewide average value of land multiplied by the acreage of land for the subject property.

(5) This section does not provide an exemption for the primary residence and improvements situated on the land.

(6) (a) A claim for assistance must be filed on a form provided by the department within 30 days from the date on the classification and appraisal notice, as provided for in 15-7-102, for the exemption to be considered for both years of the 2-year valuation cycle provided for in 15-7-111. An application made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. After an exemption is approved, the applicant remains eligible for the exemption for the remainder of the 2-year valuation cycle as long as the property is continually used as a primary residence by the applicant. An applicant who does not apply for assistance during the first year of the valuation cycle may apply no later than March 1 of the second year of the cycle.

(b) The application form must contain:

(i) an affirmation that the applicant owns and maintains the land and improvements as the primary residence;

(ii) an affirmation that the land has been owned by the applicant or a family member of the applicant within the third degree of consanguinity for at least 30 consecutive years; and

(iii) any other information required by the department that is relevant to the applicant's eligibility.

(c) When providing information to the department for qualification under this section, applicants are subject to the false swearing penalties established in 45-7-202.

(d) The department may investigate the information provided in an application and an applicant's continued eligibility.

(e) The department may request applicant verification of the primary residence.

(7) As used in this section the following definitions apply:

(a) "Land" means:

(i) parcels of land or lots of not more than 5 acres under single ownership that support the primary residential improvements. The term does not include parcels of land or lots that do not support the primary residential improvements, regardless of whether those parcels or lots are contiguous with or adjacent to the primary residential property.

(ii) subject to the limitations in subsection (7)(a)(i), separately assessed land on which a mobile or manufactured home is located, but only if the mobile or manufactured home and the land are both owned by the applicant.

(b) "Primary residence" means a single-family dwelling:

(i) in which an applicant can demonstrate the applicant lived for at least 7 months of the year for which benefits are claimed;

(ii) that is the only residence for which the land exemption claimed in this section is claimed by the applicant; and

(iii) that is owned or under contract for deed by the applicant.

(c) "Single-family dwelling" means a residential dwelling, manufactured home, trailer, or mobile home. The term does not include a condominium unit or a unit of a multiple-unit dwelling.

(d) "Statewide average value of land" is a value calculated by the department that is equal to the statewide average market value of 1 acre of class four real property described in 15-6-134(1)(a) through (1)(d).

History: En. Sec. 1, Ch. 441, L. 2017; amd. Sec. 1, Ch. 111, L. 2023.

15-6-241. Mobile home exemption. (1) There is an exemption from taxation for a mobile home, manufactured home, or housetrailer:

(a) that was manufactured 28 or more years prior to the current date;

(b) for which the most recent assessed value is $10,000 or less; and

(c) that is not determined to be an improvement to real property, as provided in 15-1-101.

(2) The department shall identify properties that qualify for the exemption and notify the owner or owners.

(3) An owner of three or more mobile homes, manufactured homes, or housetrailers may receive an exemption under this section for the two units with the lowest appraised values. The department shall aggregate similar names and addresses to determine ownership.

History: En. Sec. 1, Ch. 258, L. 2019.

15-6-242. Exemption — abandoned housetrailer, manufactured home, or mobile home. (1) There is a property tax exemption for movable housing that is uninhabitated because it is no longer fit for human habitation. To be eligible for the exemption, an applicant must meet the requirements of this section. This section does not apply to movable housing that receives an abatement for a natural disaster as provided in 15-16-611.

(2) If the movable housing has a productive use other than human habitation, the department shall assess a value to the property based on the productive use.

(3) (a) A claim for an exemption must be filed by March 1 of the tax year for which the exemption is sought on an application form provided by the department. An applicant that does not apply for an exemption during the first year of the valuation cycle may apply during the second year of the cycle.

(b) The exemption application form must contain an affirmation that the movable housing satisfies the provisions of this section and any other information required by the department that is relevant to the applicant's eligibility.

(c) When providing information to the department for qualification under this section, an applicant is subject to the false swearing penalties established in 45-7-202.

(d) The department shall investigate the information provided in an application and any information provided by a third party or local government. A local government may assist an owner of movable housing to submit an application for an exemption.

(4) After an exemption is approved, the applicant remains eligible for the exemption as long as the property continues to satisfy the provisions of this section.

(5) As used in this section, the following definitions apply:

(a) "Movable housing" means a housetrailer, manufactured home, or mobile home that is not treated as an improvement to real property as defined in 15-1-101.

(b) "Productive use" means used for livestock or storage of personal property.

History: En. Sec. 2, Ch. 230, L. 2019.

15-6-243. Fiber optic or coaxial cable abatement — wireless infrastructure abatement — review and comment by local taxing jurisdictions. The department shall establish a page on its website to enable:

(1) owners of fiber optic or coaxial cable or wireless infrastructure intending to take advantage of the tax abatement provisions in 15-6-135, 15-6-156, and 15-6-219 to notify local governing bodies of the location or locations in which they intend to place in service fiber optic or coaxial cable or wireless infrastructure; and

(2) local governing bodies to post comments on such projects identified by owners of fiber optic or coaxial cable or wireless infrastructure as provided in subsection (1).

History: En. Sec. 4, Ch. 483, L. 2021; amd. Sec. 4, Ch. 620, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 620, L. 2025. Amendment effective July 1, 2025.

Applicability: Section 6, Ch. 620, L. 2025, provided: "[This act] applies to fiber optic or coaxial cable and wireless infrastructure placed in service on or after [the effective date of this act]." Effective July 1, 2025.

15-6-244. Temporary exemption for residential subdivision development — rulemaking. (1) Subject to the provisions of this section, property that is undergoing residential subdivision development is temporarily exempt from taxation at the start of the property tax year beginning January 1 after the following conditions are met:

(a) the developer has submitted a timely property tax exemption application to the department and the department has approved the exemption application; and

(b) within 30 days after approval of the exemption application and before January 1 of the property tax year in which the exemption is sought, the developer has submitted a property tax prepayment equal to five times the amount of property taxes and assessments due on the property in the most recent property tax year. The payment is payable to the county treasurer and must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.

(2) At the time the exemption is granted, the department shall provide a notice to the clerk and recorder in the county in which the property is located. The clerk shall file the notice when the payment provided for in subsection (1)(b) is made. The notice must indicate that an exemption pursuant to this section has been granted on a form prescribed by the department.

(3) The developer or an interested party shall pay the amount provided for in subsection (1)(b) plus a fee of 5% before January 1 of the property tax year in which the exemption is sought. The payment is payable to the county treasurer and must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.

(4) (a) Subject to subsection (4)(b), the temporary exemption applies to all real property in the subdivision that was granted the exemption, including new construction of residential property for a period not to exceed 5 years, regardless of the number of conveyances from the land split, the value of real property and residential real property during the construction process, or a change in ownership.

(b) The exemption expires on any lot that was part of the land split at the start of the property tax year beginning on January 1 after a habitable residential structure has been constructed on the lot.

(5) If subdivision development is complete before the expiration of the period provided for in subsection (4)(a), the temporary exemption expires on December 31 of the year in which the subdivision development is complete. For the purposes of this subsection (5), subdivision development is complete when at least 95% of the lots that are part of the land split contain a habitable residential structure.

(6) The department may adopt rules to implement the provisions of this section.

History: En. Sec. 1, Ch. 601, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

Applicability: Section 4, Ch. 601, L. 2025, provided: "[This act] applies to property tax years beginning after December 31, 2025."

15-6-245. *(Effective January 1, 2027)* **Statement of potential tax liability — rulemaking authority.** (1) The department of revenue shall prepare and provide to the department of public health and human services a statement of potential tax liability.

(2) (a) Except as provided in subsection (2)(b), for the purposes of determining potential tax liability, the department of revenue shall treat nonprofit hospital property as class four commercial property pursuant to 15-6-134. The department of revenue shall calculate the property tax using the prior year estimated taxable value and the prior year mills levied by each taxing jurisdiction in which the nonprofit hospital is located.

(b) The department of revenue may not include a property owned by a nonprofit hospital in its calculation to determine potential tax liability if the hospital pays property taxes on that property.

(3) If a nonprofit hospital owns real property in multiple counties, the department of revenue shall prepare a single statement that reflects the total potential tax liability of all the nonprofit hospital's real property.

(4) The department of revenue shall adopt rules providing a process for a nonprofit hospital to dispute the determination of assessed or taxable value of nonprofit hospital property used to establish the potential tax liability.

(5) For the purposes of this section, "potential tax liability" means the amount of property taxes a nonprofit hospital would have owed on its real property in the prior tax year if the nonprofit hospital had not been exempt from taxation under 15-6-201.

History: En. Sec. 4, Ch. 627, L. 2025.

Compiler's Comments

Effective Date: Section 8, Ch. 627, L. 2025, provided: "[This act] is effective January 1, 2027."

Applicability: Section 9, Ch. 627, L. 2025, provided that this section applies to critical access hospitals beginning on January 1, 2031.

Part 3
Property Tax Assistance

15-6-301. Definitions. As used in this part, the following definitions apply:

(1) "Annual verification" means the use of a process to:

(a) verify an applicant's income;

(b) approve, renew, or deny benefits for the current year based upon the applicant's eligibility; and

(c) terminate participation based upon death or loss of status as a qualified veteran or veteran's spouse.

(2) "Firefighter" means a firefighter qualified under 7-33-4107 who receives full or partial pay or a volunteer firefighter as defined in 19-17-102.

(3) "First responder" means a law enforcement officer, firefighter, or volunteer emergency care provider.

(4) "Injured in the line of duty" means an injury directly related to an individual's required employment duties.

(5) "Law enforcement officer" means a police officer, sheriff, deputy sheriff, undersheriff, highway patrol officer, investigator appointed by the department of justice, fish and game

warden, park ranger, or other public safety officer certified by the public safety officer standards and training council.

(6) "PCE" means the implicit price deflator (price index) for personal consumption expenditures as published in the national income and product accounts by the bureau of economic analysis of the U.S. department of commerce.

(7) "PCE inflation factor" for a tax year means the PCE price index value for the first quarter of the prior tax year before the tax year divided by the PCE price index value for the first quarter of 2023.

(8) (a) "Primary residence" is, subject to the provisions of subsection (8)(b), a dwelling:

(i) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for which benefits are claimed;

(ii) that is the only residence for which property tax assistance is claimed; and

(iii) determined using the indicators provided for in the rules authorized by 15-6-302(2).

(b) A primary residence may include more than one dwelling when the taxpayer's combined residence in the dwellings is at least 7 months of the tax year.

(9) "Qualified first responder" means a first responder:

(a) who was killed in the line of duty or died from a disability resulting from an injury in the line of duty; or

(b) who, if living:

(i) receives a disability retirement benefit pursuant to 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, 19-17-601, or 19-18-604; or

(ii) for an injured volunteer emergency care provider, receives compensation for permanent total disability under 39-71-702 or for permanent partial disability under 39-71-703.

(10) "Qualified veteran" means a veteran:

(a) who was killed while on active duty or died as a result of a service-connected disability; or

(b) if living:

(i) was honorably discharged from active service in any branch of the armed services; and

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs.

(11) "Qualifying income" means:

(a) the federal adjusted gross income excluding capital and income losses of an applicant and the applicant's spouse as calculated on the Montana income tax return for the prior year;

(b) for assistance under 15-6-311, the federal adjusted gross income excluding capital and income losses of an applicant as calculated on the Montana income tax return for the prior tax year; or

(c) for an applicant who is not required to file a Montana income tax return, the income determined using available income information.

(12) "Qualifying property" means a primary residence that a qualified applicant owned and occupied for at least 7 months during the tax year.

(13) "Residential real property" means the land and improvements of a taxpayer's primary residence.

(14) "Volunteer emergency care provider" has the same meaning as provided in 50-6-202.

History: En. Sec. 10, Ch. 361, L. 2015; amd. Sec. 1, Ch. 7, L. 2017; amd. Sec. 1, Ch. 272, L. 2017; amd. Sec. 5, Ch. 275, L. 2017; amd. Sec. 1, Ch. 510, L. 2021; amd. Sec. 1, Ch. 583, L. 2023; amd. Sec. 2, Ch. 640, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 640, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 7, Ch. 640, L. 2025, provided: "[This act] applies to property tax years beginning January 1, 2026."

15-6-302. Property tax assistance — rulemaking. (1) The requirements of this section must be met for a taxpayer to qualify for property tax assistance under 15-6-305, 15-6-311, or 15-6-314.

(2) For the property tax assistance programs provided for in 15-6-305, 15-6-311, and 15-6-314, the residential real property must be owned by the applicant or under contract for deed and be the primary residence as defined in 15-6-301. The department shall make rules specifying the indicators used for determining whether a residence is a primary residence for purposes of property tax assistance programs.

(3) An applicant's qualifying income, as defined in 15-6-301, may not exceed the threshold established in 15-6-305, 15-6-311, or 15-6-314, or in rules established pursuant to those sections.

(4) (a) A claim for assistance must be submitted on a form prescribed by the department.

(b) The form must contain:

(i) the qualifying income of the applicant and the applicant's spouse;

(ii) an affirmation that the applicant owns and maintains the land and improvements as the primary residence as defined in 15-6-301;

(iii) the social security number of the applicant and of the applicant's spouse; and

(iv) any other information required by the department that is relevant to the applicant's eligibility.

(5) (a) An application must be filed by April 15 of the year for which assistance is first claimed.

(b) Once assistance is approved, the applicant remains eligible for property tax assistance in subsequent years through the annual verification process defined in 15-6-301 without the need to reapply.

(c) A taxpayer shall inform the department of any change in eligibility occurring from one year to the next.

(6) The department may verify an applicant's and an applicant's spouse's social security number and benefits with the social security administration and the U.S. department of veterans affairs.

(7) The department must annually verify an applicant's eligibility, including the applicant's and spouse's income, and approve, renew, or deny benefits for the current year based upon the findings.

(8) (a) When providing information for property tax assistance under 15-6-305, 15-6-311, or 15-6-314, applicants are subject to the false swearing penalties established in 45-7-202.

(b) The department may investigate the information provided in an application and an applicant's continued eligibility.

(c) The department may request applicant verification of the primary residence.

(9) The department may address unusual circumstances of ownership and income that arise in administering taxpayer assistance programs provided for in 15-6-305, 15-6-311, and 15-6-314. For the disabled veteran program provided for in 15-6-311, "unusual circumstances" includes:

(a) living expenses and income above normal and typical annual income used for funeral expenses or medical expenses, including medical expenses related to rehabilitation expenses, nontypical medical expenses, or major medical expenses of an immediate family member;

(b) unusual expenditures for necessary home and living expenses, such as major home repairs, vehicle replacement, and education or career training; and

(c) any other unusual factual circumstances regarding ownership and income.

(10) A temporary stay in a nursing home or similar facility does not change a taxpayer's primary residence for the purposes of taxpayer assistance programs provided for in 15-6-305, 15-6-311, and 15-6-314.

(11) The department shall award property assistance under the property tax assistance program that provides the greatest benefit to the taxpayer by reviewing applications and eligibility requirements, and notify the applicant of the department's decision.

History: En. Sec. 11, Ch. 361, L. 2015; amd. Sec. 2, Ch. 7, L. 2017; amd. Sec. 6, Ch. 275, L. 2017; amd. Sec. 1, Ch. 672, L. 2023; amd. Sec. 3, Ch. 640, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 640, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 7, Ch. 640, L. 2025, provided: "[This act] applies to property tax years beginning January 1, 2026."

15-6-303 and 15-6-304 reserved.

15-6-305. Property tax assistance program — fixed or limited income — inflation adjustments. (1) There is a property tax assistance program that provides graduated levels of tax assistance for the purpose of assisting citizens with limited or fixed incomes. To be eligible for the program, applicants must meet the requirements of 15-6-302.

(2) The first $350,000 in market value of residential real property qualifying for the property tax assistance program is taxed at the rates established by 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $13,590	$0 - $18,310	20%
$13,591 - $18,580	$18,311 - $27,667	50%
$18,581 - $27,621	$27,668 - $37,019	70%

(3) The market value in subsection (2) must be adjusted after each reappraisal cycle provided for in 15-7-111 using an inflation index based on the change in appraised value of a median value of residential real property participating in the property tax assistance program.

(4) The qualifying income levels contained in subsection (2) must be adjusted annually using the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount. If the adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels must remain the same for that year.

History: En. Sec. 12, Ch. 361, L. 2015; amd. Sec. 3, Ch. 7, L. 2017; amd. Sec. 2, Ch. 510, L. 2021; amd. Sec. 2, Ch. 583, L. 2023.

15-6-306 through 15-6-310 reserved.

15-6-311. Disabled veteran program. (1) The residential real property of a qualified veteran or a qualified veteran's spouse is eligible to receive a tax rate reduction as provided in 15-6-302 and this section.

(2) Property qualifying under subsection (1) and owned by a qualified veteran is taxed at the rate provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $45,803	$0 - $54,963	0%
$45,804 - $50,384	$54,964 - $59,544	20%
$50,385 - $54,963	$59,545 - $64,124	30%
$54,964 - $59,554	$64,125 - $68,705	50%

(3) For a surviving spouse who owns property qualifying under subsection (4), the property is taxed at the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying income determined from the following table:

Income Surviving Spouse	Percentage Multiplier
$0 - $38,169	0%
$38,170 - $42,750	20%
$42,751 - $47,330	30%
$47,331 - $51,911	50%

(4) The property tax exemption under this section remains in effect as long as the qualifying income requirements are met and the property is the primary residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the spouse:

(a) is the owner and occupant of the house;

(b) is unmarried; and

(c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability at the time of death or that the veteran died while on active duty or as a result of a service-connected disability.

(5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by using the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount. If the adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels must remain the same for that year.

History: En. Sec. 13, Ch. 361, L. 2015; amd. Sec. 4, Ch. 7, L. 2017; amd. Sec. 7, Ch. 275, L. 2017; amd. Sec. 3, Ch. 510, L. 2021; amd. Sec. 3, Ch. 583, L. 2023.

Cross-References

Special consideration allowed service personnel and veterans, Art. II, sec. 35, Mont. Const.

15-6-312. Time period for property tax assistance. (1) A person who qualifies for assistance under 15-6-305, 15-6-311, or 15-6-314 is entitled to assistance as provided for in this section.

(2) The property tax assistance is provided for the full tax year:

(a) in the first year in which the applicant qualifies for assistance if the applicant resides in the qualifying property for the remainder of the tax year;

(b) if the applicant resides in the qualifying property for the full tax year;

(c) for qualifying property owned by an applicant at the time the tax roll is provided to the county treasurer for billing if 15-6-301(8)(b) applies.

(3) If an applicant who qualifies for assistance sells the qualifying property and does not purchase a new residence during the tax year, the assistance is provided for the number of days the taxpayer owned the qualifying property during the tax year based on the date of sale.

(4) (a) Except as provided in subsection (4)(b), a person who purchases a qualifying property is not entitled to assistance for the partial tax year during which the person owns the property. The property must be assessed at the full tax rate for the portion of the year the person owns the property based on the date of sale.

(b) If the sale date is after the county treasurer sends the tax notice provided for in 15-16-101(2), the tax notice may not be revised based on the change in ownership.

History: En. Sec. 2, Ch. 272, L. 2017; amd. Sec. 4, Ch. 640, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 640, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 7, Ch. 640, L. 2025, provided: "[This act] applies to property tax years beginning January 1, 2026."

15-6-313 reserved.

15-6-314. Injured first responder program. (1) The residential real property of a qualified first responder or a qualified first responder's spouse is eligible to receive a tax rate reduction as provided in 15-6-302 and this section.

(2) Property qualifying under subsection (1) and owned by a qualified first responder is taxed at the rate provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $45,803	$0 - $54,963	0%
$45,804 - $50,384	$54,964 - 59,544	20%
$50,385 - $54,963	$59,545 - $64,124	30%
$54,964 - $59,554	$64,125 - $68,705	50%

(3) For a surviving spouse who owns property qualifying under subsection (4), the property is taxed at the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying income determined from the following table:

Income Surviving Spouse	Percentage Multiplier
$0 - $38,169	0%
$38,170 - $42,750	20%
$42,751 - $47,330	30%
$47,331 - $51,911	50%

(4) The property tax exemption under this section remains in effect as long as the qualifying income requirements are met and the property is the primary residence owned and occupied by the qualified first responder or, if the first responder is deceased, by the first responder's spouse, and the spouse:

(a) is the owner and occupant of the house;

(b) is unmarried; and

(c) has obtained a letter from the first responder's employer indicating that the first responder was killed in the line of duty or died from a disability resulting from an injury in the line of duty.

(5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by using the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount. If the adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels must remain the same for that year.

History: En. Sec. 1, Ch. 640, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

Transition: Section 5, Ch. 640, L. 2025, provided: "The department of revenue shall update the income limits in [section 1] [15-6-314] pursuant to [section 1(4)] [15-6-314(4)] for tax year 2026." Effective October 1, 2025.

Applicability: Section 7, Ch. 640, L. 2025, provided: "[This act] applies to property tax years beginning January 1, 2026."

Part 4
Homestead and Long-Term Rental Rate Reduction

15-6-401. Legislative findings — local government charters and fixed mill levy limits superseded. (1) (a) The legislature finds that most local governments set mill levies that adjust downward when taxable value increases under 15-10-420. This floating mill levy concept automatically lowers the number of mills levied against a taxpayer when property values increase, which mitigates increases in property values. However, when mill levies are fixed, the opposite occurs when property values increase, and property taxes are not automatically mitigated for taxpayers that are levied based on a fixed mill levy.

(b) The legislature finds further that it is prohibited under Article VIII, section 2, of the Montana constitution, from suspending or contracting away the power to tax. The legislature also recognizes and respects the power of local governments under Article XI, section 5, of the Montana constitution to adopt, amend, revise, or abandon a charter.

(2) As a matter of policy, the legislature intends to supersede local government charters that fix mill levy limits for the limited purpose of exercising the power to tax while also maintaining local government revenue sources without raising taxes on residential taxpayers. Having considered all options on a statewide basis, the legislature finds the statutory structure of the property tax has evolved significantly since the passage of Initiative Measure No. 105 on November 4, 1986, and the enactment of 15-10-420 by the legislature in 1999. Given the significant change in the structure of the property tax and the rising cost of residential property in the last 5 years, there is a compelling interest to all the citizens of the state to lower residential property tax rates for primary residences, which can only be accomplished by this section and 15-10-420.

(3) A local government with a charter form of government that includes a mill levy limit of a specific number of mills that may be imposed in the charter shall levy the number of mills in fiscal year 2026 and subsequent tax years that will generate the amount of property taxes assessed in fiscal year 2025, without amending or revising the charter. In fiscal years after 2026, the local government may levy an amount not to exceed the number of mills levied in fiscal year 2026.

(4) A taxing entity with a local mill levy limit of a specific number of mills that may be imposed that was authorized by the voters before May 13, 2025, shall:

(a) elect to transition a voted mill levy to a dollar-based mill levy equal to the amount of property taxes assessed in fiscal year 2025 and thereafter subject to the provisions of 15-10-420(1)(a); or

(b) levy the number of mills in fiscal year 2026 that will generate the amount of property taxes assessed in fiscal year 2025. In fiscal years after 2026, the local government may levy an amount not to exceed the number of mills levied in fiscal year 2026.

History: En. Sec. 4, Ch. 767, L. 2025; amd. sec. 29, Ch. 674, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective on passage and approval. Approved May 13, 2025.

2025 Amendment — Coordination: See 2025 Session Law for amendment made by sec. 29, Ch. 674, L. 2025, a coordination section. Amendment effective May 13, 2025.

Applicability — Retroactive Applicability: Section 32, Ch. 674, L. 2025, provided that the amendments to this section apply to property tax years beginning after December 31, 2024.

Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-402. *(Effective January 1, 2026)* **Definitions.** As used in this part and 15-6-134, the following definitions apply:

(1) "Homestead reduced tax rate" means the tax rate provided for in 15-6-134(3)(b)(i).

(2) "Long-term rental" means class four residential property:

(a) that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and the parcel on which the long-term rental improvements are located but not including any contiguous or adjacent parcels;

(b) that an owner can demonstrate was:

(i) rented for periods of 28 days or more for at least 7 months in each tax year for which the rental property reduced tax rate is claimed; or

(ii) vacant for not more than 5 months to complete documented property repairs;

(c) that is occupied by tenants who use the dwelling as a residence during the year in which the reduced tax rate is claimed; and

(d) for which the owner is current on payment of the assessed Montana property taxes when claiming the reduced tax rate.

(3) "Owner" includes a purchaser under contract for deed as defined in 70-20-115, a grantor of a trust indenture as defined in 71-1-303, and the trustee of a grantor trust that is revocable as defined in 72-38-103.

(4) (a) "Principal residence" means class four residential property:

(i) that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and the parcel on which the principal residence improvements are located but not including any contiguous or adjacent parcels;

(ii) in which an owner can demonstrate the owner owned and lived for at least 7 months of the year for which the homestead reduced tax rate for a principal residence is claimed;

(iii) that is the only residence for which the owner claims the homestead reduced tax rate for that year; and

(iv) for which the owner made payment of the assessed Montana property taxes.

(b) An owner who cannot meet the requirements of subsection (4)(a)(ii) because the owner's principal residence changed during the tax year to another principal residence may still qualify for the homestead reduced tax rate if the owner paid the Montana property taxes while residing in each principal residence for a total of at least 7 consecutive months for each tax year.

(5) "Rental property reduced tax rate" means the tax rate provided for in 15-6-134(3)(b).

(6) "Tax year 2026" means the period from January 1, 2026, through December 31, 2026.

History: En. Sec. 5, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-403 and 15-6-404 reserved.

15-6-405. *(Effective January 1, 2026)* **Homestead reduced tax rate — application — limitations.** (1) There is a homestead reduced tax rate provided for in 15-6-134(3)(b)(i) for a principal residence as provided in this section.

(2) (a) Beginning in tax year 2026, the owner of a principal residence may apply to the department to receive the homestead reduced tax rate. The owner of a principal residence who applied for and received the rebate provided for in 15-1-2305 through 15-1-2307 for tax year 2024 automatically qualifies for the homestead reduced tax rate unless subsections (2)(c)(i) through (2)(c)(iii) apply to the principal residence for which the rebate was claimed. The owner of a principal residence who did not receive a rebate under 15-1-2305 through 15-1-2307, shall apply as provided in this section to receive the homestead reduced tax rate in tax year 2026.

(b) To receive the homestead reduced tax rate for the tax year in which the application is first made, the owner shall apply electronically through the department's website or by mail on a form prescribed by the department between December 1 of the immediately preceding year and March 1. Applications submitted by mail must be postmarked by March 1. Approved applications received electronically or postmarked after March 1 apply to the following tax year.

(c) Once approved, the homestead reduced tax rate remains effective until the end of the tax year in which any of the following events occur:

(i) there is a change in ownership of the property;

(ii) the owner no longer uses the dwelling as a principal residence; or

(iii) the owner applies for a homestead reduced tax rate for a different principal residence.

(d) If a homestead reduced tax rate is terminated pursuant to subsection (2)(c) or 15-6-415, any remaining property taxes due for the year in which the homestead reduced tax rate is terminated must be based on the tax rate in effect on January 1 of the year in which the homestead reduced tax rate was terminated.

(e) An application for a homestead reduced tax rate must be submitted on a form prescribed by the department and must contain:

(i) a written declaration made under penalty of perjury that the applicant owns and maintains the land and improvements as the principal residence as defined in 15-6-402. The application must state the penalty provided for in 15-6-415.

(ii) the geocode or other property identifier of the principal residence for which the applicant is requesting the homestead reduced tax rate;

(iii) the social security number of the applicant; and

(iv) any other information required by the department that is relevant to the applicant's eligibility.

(3) (a) Except as provided in subsection (3)(b), class four residential property owned by an entity is not eligible to receive the homestead reduced tax rate.

(b) The trustee of a grantor revocable trust may apply for a homestead reduced tax rate for a principal residence on behalf of the trust if the dwelling meets the definition of a principal residence for the grantor.

(4) The department shall notify the owner if the homestead reduced tax rate is applied to the property or if the application was denied.

History: En. Sec. 6, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-406 reserved.

15-6-407. *(Effective January 1, 2026)* **Refund for failure to claim homestead reduced tax rate — statutory appropriation.** (1) A property owner who was eligible for the homestead reduced tax rate provided for in 15-6-405, but who failed to file an application to claim the homestead reduced tax rate may receive a refund as provided in this section.

(2) To claim a refund under this section, a property owner shall file an informal appeal with the department of revenue by May 31 of the year after the property owner did not receive the homestead reduced tax rate. The refund may only be claimed for 1 year.

(3) If the department determines the property owner is eligible for a refund under this section, the department shall calculate the difference between property taxes paid and property taxes that would have been due if the property owner received the homestead reduced tax rate in the prior year.

(4) The department shall issue a refund to the property owner of the amount calculated pursuant to subsection (3).

(5) The payment of property tax refunds under this section is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for distribution to taxpayers.

History: En. Sec. 24, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-408 through 15-6-410 reserved.

15-6-411. *(Effective January 1, 2026)* **Rental property reduced tax rate — application — limitations.** (1) There is a rental property reduced tax rate provided for in 15-6-134(3)(b) for a long-term rental as provided in this section.

(2) (a) Beginning in tax year 2026, the owner of a long-term rental may apply to the department to receive the rental property reduced tax rate. The application must be made by an individual owner or, for an entity owner, by an authorized representative of the entity.

(b) The department shall mail a notice to potential claimants by October 30, 2025, for tax year 2026. Receipt of a notice does not establish that a taxpayer or property owner is eligible to receive the rental property reduced tax rate, and a taxpayer who does not receive a notice may still be eligible to claim the rental property reduced tax rate. All taxpayers, regardless of the receipt of notice, shall apply for a reduced rate as provided in this subsection (2).

(c) To receive the rental property reduced tax rate for the tax year in which the application is first made, the owner or authorized representative shall apply electronically through the department's website or by mail on a form prescribed by the department between December 1 of the immediately preceding year and March 1. Applications received electronically or postmarked after March 1 apply to the following tax year.

(d) Once approved, the rental property reduced tax rate remains effective until the end of the tax year in which any of the following events occur:

(i) there is a change in ownership of the property;

(ii) the property is no longer rented to tenants as a dwelling;

(iii) the terms of the lease change and the property no longer qualifies as a long-term rental as defined in 15-6-402; or

(iv) the owner fails to submit a reapplication to the department as required in subsection (4).

(e) If a rental property reduced tax rate is terminated pursuant to subsection (2)(d) or 15-6-415, any remaining property taxes due for the year in which the rental property reduced tax rate is terminated must be based on the tax rate in effect on January 1 of the year in which the rental property reduced tax rate was terminated.

(3) An application for a rental property reduced tax rate must be submitted on a form prescribed by the department and must contain:

(a) a written declaration made under penalty of perjury that the applicant owns and maintains the land and improvements as a long-term rental as defined in 15-6-402. The application must state the penalty provided for in 15-6-415.

(b) the geocode or other property identifier for the long-term rental for which the applicant is requesting the rental property reduced tax rate;

(c) the social security number or taxpayer identification number of the applicant;

(d) the income and expense information for the long-term rental for the immediately preceding year, including the amount of rent charged each month; and

(e) any other information required by the department that is relevant to the applicant's eligibility.

(4) To continue receiving the rental property reduced tax rate, the owner of a qualifying long-term rental shall reapply as required by the department. Beginning in 2028, the department shall require reapplication of 20% of long-term rentals each year.

(5) Periods of short-term vacancy not exceeding 5 months in a 12-month period do not disqualify a long-term rental from receiving the rental property reduced tax rate.

(6) The department shall notify the owner if the rental property reduced tax rate is applied to the property or if the application was denied.

History: En. Sec. 7, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-412 through 15-6-414 reserved.

15-6-415. *(Effective January 1, 2026)* **Homestead and rental property reduced tax rates — improper approval — penalty for false or fraudulent application.** (1) Except as provided in subsection (2), if the department determines that an application for a homestead reduced tax rate or a rental property reduced tax rate was improperly approved or that the property no longer qualifies for the reduced rate, the department shall revise the assessment for each year the homestead reduced tax rate or the rental property reduced tax rate was improperly granted subject to the assessment revision procedure established in 15-8-601.

(2) A person who files a false or fraudulent application for a homestead reduced tax rate provided for in 15-6-405 or for a rental property reduced tax rate provided for in 15-6-411 is subject to criminal prosecution under the provisions of 45-7-202.

(3) (a) If a person is determined to have filed a false or fraudulent application, the department shall revise the assessment of the property subject to the assessment revision procedure established in this section and 15-8-601 and assess a penalty as provided in this subsection (3). The penalty is equal to three times the base penalty amount calculated under subsection (3)(b) plus interest at the rate provided in 15-16-102 calculated from the original due date of the taxes, until paid.

(b) The base penalty amount is equal to the property tax due for each year the homestead reduced tax rate or the rental property reduced tax rate was improperly received, determined using the tax rate provided for in 15-6-134(3)(a), the appraised value, and the mill levies in effect for the year, less the actual property taxes paid in the year.

(c) The revised assessment and penalty must be assessed against a person who filed a false or fraudulent application even if the person no longer owns the property.

(4) If the person who filed a false or fraudulent application no longer owns the property associated with the false or fraudulent application, the penalty plus interest provided for in subsection (3) may be recovered as any other tax owed the state. If the penalty plus interest becomes due and owing, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(5) Except as provided in subsection (4), if the department determines that a false or fraudulent application was made, the department shall send the revised assessment with the additional penalty amount as determined under subsection (3) to the county treasurer in the county where the property is located.

(6) The county treasurer shall distribute property taxes, penalty, and interest collected under this section proportionally to the affected taxing jurisdictions.

(7) A revised assessment made under this section must be made within 10 years after the end of the calendar year in which the original application was made.

History: En. Sec. 8, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-416 and 15-6-417 reserved.

15-6-418. *(Effective January 1, 2026)* **Appeal or denial of reduced tax rate.** (1) (a) If the department denies an application for a homestead reduced tax rate or a rental property reduced tax rate, the owner may request an informal review of the denial by submitting an objection on written or electronic forms provided by the department for that purpose in a manner prescribed by the department. The objection must be made no later than 30 days after the date of the denial notification sent pursuant to 15-6-405(4) or 15-6-411(6).

(b) The property owner may request that the department consider extenuating circumstances to grant an application for the homestead reduced tax rate or the rental property reduced tax rate. Extenuating circumstances include but are not limited to extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary, and that are not expected to recur.

(c) After the informal review, the department shall determine the correct status of the homestead reduced tax rate or the rental property reduced tax rate and notify the taxpayer of its determination by mail or electronically. In the notification, the department shall state its reasons for accepting or denying the application.

(2) If a property owner is aggrieved by the determination made by the department after the review provided for in subsection (1), the property owner has the right to first appeal to the county tax appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review in the courts. An appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. If the county tax appeal board or the Montana tax appeal board determines that the homestead reduced tax rate or the rental property reduced tax rate should apply, the department shall adjust the taxable value of the property in accordance with the board's order.

History: En. Sec. 9, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-6-419 through 15-6-424 reserved.

15-6-425. *(Effective January 1, 2026)* **Rulemaking authority.** The department shall adopt rules that are necessary to implement and administer this part.

History: En. Sec. 10, Ch. 767, L. 2025.

Compiler's Comments

Effective Date: Section 27, Ch. 767, L. 2025, provided that this section is effective January 1, 2026.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Part 5
Senior Care Facilities and Housing Development Exemption Act

Part Compiler's Comments
Effective Date: This part is effective October 1, 2025.
Applicability: Section 11, Ch. 755, L. 2025, provided that this part applies to property tax years beginning after December 31, 2025.

15-6-501. Short title. This part may be cited as the "Senior Care Facilities and Housing Development Exemption Act".
History: En. Sec. 1, Ch. 755, L. 2025.

15-6-502. Legislative purpose. The legislature finds and declares that there is a shortage in this state of decent, safe, and sanitary, senior care and housing facilities that is affordable for all seniors. To alleviate the high cost of facilities and housing for all seniors, the legislature believes it is essential that property tax incentives be made available to tax-exempt organizations that assist senior Montanans in meeting critical housing needs.
History: En. Sec. 2, Ch. 755, L. 2025.

15-6-503. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:
(1) "Board" means the board of directors for a tax-exempt senior care and housing sponsor.
(2) "Department" means the department of revenue provided for in 2-15-1301.
(3) (a) "Local government" means the county, consolidated government, or incorporated city or town where the senior development project is located or proposed to be located.
(b) The term does not include the county if the senior development project is located or proposed to be located in an incorporated city or town.
(4) "Property owner-operator" means a corporation that is incorporated or admitted under a certificate of authority under the laws of the state and that leases or purchases property for senior care facilities and housing or related facilities, which may include a purchase from a tax-exempt senior care and housing sponsor.
(5) "Senior care facilities" means some or all levels of a continuum of care. The term includes but is not limited to independent living and housing, semi-independent living and housing, assisted living, in-home nursing or assistant care, memory care, short-term or long-term medical care, or hospice.
(6) "Senior care facilities and housing" means senior care facilities and senior housing:
(a) specifically designed and operated to assist and benefit elderly persons;
(b) intended for, and solely occupied by, persons 62 years of age or older; or
(c) intended and operated for occupancy by at least one person 55 years of age or older in each unit in accordance with the provisions of 42 U.S.C. 3607(b)(2)(C) and (b)(3) through (b)(5), as those provisions read on March 31, 1996.
(7) (a) "Senior care and housing development project" means single-family homes and multifamily projects for the primary purpose of acquiring land for, constructing, or rehabilitating accommodations for senior care facilities and housing that may be retained and rented or sold to a property owner-operator for senior care facilities and housing.
(b) The development process includes:
(i) the acquisition of property, not to exceed 250 acres;
(ii) the planning of the buildings, infrastructure, utilities, and improvements;
(iii) permitting;
(iv) the demolition of existing structures; and
(v) the construction, reconstruction, alteration, and repair of the improvements.
(8) "Tax-exempt senior care and housing sponsor" means a charitable nonprofit corporation that is exempt from taxation under 26 U.S.C. 501(c)(3), as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, and whose articles of incorporation provide in addition that:
(a) the charitable organization has been organized exclusively to obtain land and assist senior care and housing development projects;
(b) all of the income and earnings of the organization must be used exclusively for senior care and housing development project purposes, and part of the net income or net earnings of the

organization may not inure to the benefit or profit of any private individual, firm, corporation, partnership, or association; and

(c) the charitable organization is in no manner controlled by, under the direction of, or acting in the substantial interest of any private individual, firm, partnership, or association seeking to derive profit or gain from the organization or seeking to eliminate or minimize losses in any transactions with the organization.

History: En. Sec. 3, Ch. 755, L. 2025.

15-6-504. Petition — approval or denial by local government — compelling need for senior care and housing development project. (1) A tax-exempt senior care and housing sponsor may file a petition with a local government requesting preapproval of a property tax exemption for a senior care and housing development project. The petition must include sufficient information regarding property development, including the buildings, land, equipment, facilities, or other real or personal properties that are necessary, convenient, related, or desirable in connection with the development of senior care facilities and housing, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities that the tax-exempt senior care and housing sponsor determines to be necessary, convenient, related, or desirable.

(2) Upon the filing of the petition, the local government shall give notice of the time, place, and purpose of a public hearing at which the governing body of the local government shall determine whether there is a need for the senior care and housing development project.

(3) If the governing body determines there is a compelling need for the senior care and housing development project, it shall adopt a resolution approving the petition. If the governing body approves the petition, the tax-exempt senior care and housing sponsor may apply for a property tax exemption pursuant to 15-6-506 within 2 years after the approval.

(4) If the governing body, after a hearing, determines that there is not a compelling need for a senior care and housing development project, it shall adopt a resolution denying the petition. After 3 months have expired following the date of the denial of a petition, subsequent petitions may be filed, and new hearings and determinations may be made on the petitions.

History: En. Sec. 4, Ch. 755, L. 2025.

15-6-505. Projects subject to existing development laws — preference for senior care facilities and housing authorized. (1) A senior care and housing development project is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the housing project is situated.

(2) A property owner-operator or tax-exempt senior care and housing sponsor shall extend preference in occupancy for senior care facilities and housing.

History: En. Sec. 5, Ch. 755, L. 2025.

15-6-506. Temporary exemption for senior care and housing development project — rulemaking. (1) If the governing body approves a petition for a senior care and housing development project pursuant to 15-6-504, the board of the tax-exempt senior care and housing sponsor may submit a property tax exemption application to the department. The application must include the petition that was submitted to the governing body and the resolution approving the petition. After the department has approved the exemption application, the property of the senior care and housing development project is temporarily exempt from all property taxation at the start of the property tax year beginning January 1 after the approval.

(2) At the time the exemption is granted, the department shall provide a notice to the clerk and recorder in the county where the property is located, and the clerk shall file the notice. The notice must indicate that an exemption pursuant to this section has been granted on a form prescribed by the department.

(3) Subject to subsection (5), the temporary exemption applies to all real property owned by a property owner-operator or a tax-exempt senior care and housing sponsor within the senior care and housing development project, including new construction, for a period equal to the lesser of 5 years or until the development is final and operational. A tax-exempt property owner-operator or tax-exempt senior care and housing sponsor may rent homes and multifamily projects for senior care facilities and housing without loss of the temporary exemption.

(4) During the year in which the exemption provided for in subsection (3) expires, a tax-exempt property owner-operator or the board of a tax-exempt senior care and housing sponsor may submit a renewal application to the department for an additional 5-year exemption. The exemption applies to all property owned by the tax-exempt property owner-operator or tax-exempt senior care and housing sponsor that is used for senior care facilities and senior housing facilities.

(5) The exemptions in subsections (3) and (4) expire at the start of the property tax year beginning on January 1 for a lot or structure that is leased or sold by the tax-exempt senior care and housing sponsor to anyone other than a tax-exempt property owner-operator.

(6) Subject to subsection (7), the donor of property to a tax-exempt senior care and housing sponsor may retain a portion of land within the senior care and housing development project and receive a property tax exemption until the earliest of:

(a) the expiration of the exemption;

(b) the date the project becomes operational by filling beds, an apartment, or other living facility; or

(c) when a commercial business is open to the public.

(7) The senior care and housing development project may not be composed of more than 20% of land that is used for complementary ancillary commercial businesses other than senior care facilities and senior housing, including but not limited to doctor's offices, rehabilitation facilities, grocery or convenience stores, neighborhood restaurants, pharmacies, and workforce housing related to employment at senior care facilities.

History: En. Sec. 6, Ch. 755, L. 2025.

15-6-507. Reports to local government by tax-exempt senior care and housing sponsor. The board of a tax-exempt senior care and housing sponsor shall, at least once a year, file with the governing body of the local government a report of its activities for the preceding year until the property tax exemption in 15-6-506 expires.

History: En. Sec. 7, Ch. 755, L. 2025.

15-6-508. Rulemaking. The department may adopt rules to implement the provisions of this part.

History: En. Sec. 8, Ch. 755, L. 2025.

Part 6 reserved

Part 7
Primary Residence Property Tax Assistance

Part Compiler's Comments

Effective Date: Section 46, Ch. 775, L. 2025, provided that this part is effective on passage and approval. Approved June 19, 2025.

15-6-701. Property tax assistance for primary residences. (1) A county shall provide property tax assistance to owners of primary residences certified by the department of revenue pursuant to 15-6-703. The assistance is provided with funding from the state property tax assistance account distributed to the county as provided in 15-6-702.

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall provide the property tax assistance distributed pursuant to 15-6-702 to each primary residence by listing the property tax assistance amount as a credit on the property tax bill as provided in 15-16-101(2)(a)(v).

(b) If the property tax assistance calculated pursuant to 15-6-702(2). exceeds the property tax billed for an individual property, the county may retain the revenue that exceeds the property tax billed.

(3) The owner of a primary residence that receives property tax assistance under this section is not prohibited from receiving property tax assistance under another property tax assistance program.

(4) State property tax assistance provided to counties pursuant to this section may not affect the maximum mill calculation in 15-10-420.

History: En. Sec. 35, Ch. 775, L. 2025.

Compiler's Comments

2025 Codification Change: Section 43, Ch. 775, L. 2025, provided that this section was to be codified as an integral part of Title 7, chapter 6, part 25. The Code Commissioner has codified this section in Title 15, chapter 6, part 7, to more closely reflect the subject matter.

15-6-702. State property tax assistance account. (1) There is a state property tax assistance account in the state special revenue fund established in 17-2-102. The revenue allocated to the account as provided in 17-1-402 must be deposited in the account and distributed as provided in this section.

(2) (a) At the end of each fiscal year, if the balance in the account exceeds $50 million, the department shall determine the amount of property tax assistance per primary residence by subtracting the amounts listed in subsection (2)(c) and dividing the remainder by the total number of primary residences certified pursuant to 15-6-703.

(b) By August 31 of each year, the department shall distribute to each county the property tax assistance per primary residence multiplied by the number of primary residences within the county. The county shall deposit the money in the account in which property tax revenue is held and use the distribution to provide property tax assistance pursuant to 15-6-701.

(c) The department may retain 2% of the revenue allocated to the account for administering the certification of primary residences under 15-6-703 and shall retain $100,000 for appeals granted under 15-6-705.

(3) The department shall provide each county with a list of property in the county that the department certifies pursuant to 15-6-703 qualifies as a primary residence to enable the county treasurer to administer the property tax assistance.

(4) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

History: **En. Sec. 14, Ch. 775, L. 2025.**

15-6-703. Certification of primary residence for state property tax assistance — rulemaking — definition. (1) To receive state property tax assistance pursuant to 15-6-701, the owner of a primary residence shall apply to the department for certification of the primary residence.

(2) (a) To receive state property tax assistance for the tax year in which the application is first made, the owner shall apply electronically or by mail on a form prescribed by the department and postmarked by March 1. Approved applications received electronically or postmarked after March 1 apply to the following tax year.

(b) Once approved, the certification remains effective until:

(i) there is a change in ownership of the property;

(ii) the owner no longer uses the dwelling as a primary residence; or

(iii) the owner applies for state property tax assistance for a different primary residence.

(c) If certification is terminated pursuant to subsection (2)(b), the owner shall submit a new application to the department to reestablish the certification.

(d) An application for state property tax assistance must be submitted on a form prescribed by the department and must contain:

(i) a written declaration made under penalty of perjury that the applicant owns and maintains the land and improvements as the primary residence. The application must state the penalty provided for in 15-6-704.

(ii) the geocode or other property identifier for the primary residence for which the applicant is requesting the state property tax assistance;

(iii) the social security number of the applicant; and

(iv) any other information required by the department that is relevant to the applicant's eligibility.

(3) (a) Except as provided in subsection (3)(b), class four residential property owned by an entity is not eligible to receive the state property tax assistance.

(b) The trustee of a grantor revocable trust may apply for state property tax assistance for a primary residence on behalf of the trust if the dwelling meets the definition of a primary residence for the grantor.

(4) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this section.

(5) (a) For the purposes of 15-6-704, 15-6-705, and this section, "primary residence" means a class four residential property:

(i) that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home;

(ii) in which an owner can demonstrate the owner owned and lived for at least 7 months of the year;

(iii) that is the owner's only primary residence;

(iv) for which the value of the residential dwelling is $1 million or less; and

(v) for which the owner made payment of the assessed Montana property taxes.

(b) An owner who cannot meet the requirements of subsection (5)(a)(ii) because the owner's primary residence changed during the tax year to another primary residence may still qualify if the owner paid the Montana property taxes while residing in each primary residence for a total of at least 7 consecutive months of the tax year. The department shall establish rules for determining the property tax assistance when the primary residences are in different counties.

History: En. Sec. 36, Ch. 775, L. 2025.

15-6-704. State property tax assistance — penalty for false or fraudulent application. A person who files a false or fraudulent certification of primary residence for state property tax assistance under 15-6-703 is subject to criminal prosecution under the provisions of 45-7-202 and may be prohibited from claiming state property tax assistance for up to 10 years. If false or fraudulent property tax assistance has been issued by the county, the amount of assistance granted may be recovered as any other tax owed the county. If property tax assistance becomes due and owing, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

History: En. Sec. 37, Ch. 775, L. 2025.

15-6-705. Appeal of denial of certification of primary residence. (1) (a) If the department denies an application for certification of a primary residence, the owner may request an informal review of the denial by submitting an objection on written or electronic forms provided by the department for that purpose in a manner prescribed by the department. The objection must be made no later than 30 days after the date of the denial notification.

(b) The property owner may request that the department consider extenuating circumstances to grant an application for certification of a primary residence. Extenuating circumstances include but are not limited to extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary, and that are not expected to recur.

(c) After the informal review, the department shall determine the correct status of the application and notify the taxpayer of its determination by mail or electronically. In the notification, the department shall state its reasons for accepting or denying the application.

(2) If a property owner is aggrieved by the determination made by the department after the review provided for in subsection (1), the property owner has the right to first appeal to the county tax appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review in the courts. An appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. If the county tax appeal board or the Montana tax appeal board determines that the residence should qualify as a primary residence, the department shall provide to the property owner the amount of property tax assistance due from the amount retained pursuant to 15-6-702.

History: En. Sec. 38, Ch. 775, L. 2025.

CHAPTER 7
APPRAISAL

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15-7-103. Classification and appraisal — general and uniform methods.
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15-7-304. Report of transfers — change of ownership records.
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Chapter Cross-References
Taxation of condominium units, 15-8-511, 15-8-512.

Part 1
General Methods

Part Cross-References
Property tax administration, Art. VIII, sec. 3, Mont. Const.
Equal valuation, Art. VIII, sec. 4, Mont. Const.
Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

15-7-101. Classification and appraisal — duties of department of revenue. (1) It is the duty of the department of revenue to accomplish the following:

(a) the classification of all taxable lands;

(b) the appraisal of all taxable city and town lots;

(c) the appraisal of all taxable rural and urban improvements.

(2) A record of classifications and appraisals under subsection (1) must be kept upon the maps, plats, and forms and entered in the books of record prescribed by the department. The maps, plats, forms, and books of record are official records of the state. A certified copy of all records requested must be furnished to the department.

(3) When the department uses an appraisal method that values land and improvements as a unit, including the comparable sales method for residential condominiums or the income method for commercial property, the department shall establish a combined appraised value of land and improvements.

(4) It is the duty of the department to maintain current the classification of all taxable lands and appraisal of city and town lots and rural and urban improvements, as provided for herein.

History: En. Sec. 1, Ch. 191, L. 1957; amd. Sec. 14, Ch. 405, L. 1973; amd. Sec. 1, Ch. 353, L. 1975; amd. Sec. 1, Ch. 123, L. 1977; R.C.M. 1947, 84-429.7(1); amd. Sec. 1, Ch. 356, L. 2011.

Cross-References
Classifications of property subject to taxation, Title 15, ch. 6, part 1.
Taxation of property subject to conservation easement, 76-6-208.

15-7-102. Notice of classification, market value, and taxable value to owners — appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, the homestead reduced tax rate provided for in 15-6-405, the rental property reduced tax rate provided for in 15-6-411, the state property tax assistance provided for in 15-6-701, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year;

(iii) the market value for the prior reappraisal cycle;

(iv) if the market value has increased by more than 10%, an explanation for the increase in valuation;

(v) a statement that the notice is not a tax bill; and

(vi) a taxpayer option to request an informal classification and appraisal review by checking a box on the notice and returning it to the department.

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose or by checking a box on the notice and returning it to the department in a manner prescribed by the department.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, class ten property described in 15-6-143, and centrally assessed property described in 15-23-101, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection may be made only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer shall make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For centrally assessed property described in 15-23-101(2)(a), the objection must be submitted within 20 days from the date on the notice. A taxpayer may submit an objection up to 10 days after this deadline on request to the department.

(iv) (A) For centrally assessed property described in 15-23-101(2)(b) and (2)(c), an objection to the valuation or classification may be made only once each valuation cycle. An objection must be made in writing within the time period specified in subsection (3)(a)(iii) for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made after the deadline specified in subsection (3)(a)(iii) will be applicable only for the second year of

the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer shall make the objection in writing no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within the time period specified in subsection (3)(a)(iii).

(B) If a property owner has exhausted the right to object to a valuation, as provided for in subsection (3)(a)(iv)(A), the property owner may ask the department to consider extenuating circumstances to adjust the value of property described in 15-23-101(2)(b) or (2)(c). Occurrences that may result in an adjustment to the value include but are not limited to extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary business operations, that are not expected to recur frequently, and that are not normally considered in the evaluation of the operating results of a business, including bankruptcies, acquisitions, sales of assets, or mergers.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector or a representative of the objector, and only if the objector or representative signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property;

(ii) sales data used by the department to value residential property in the property taxpayer's market model area; and

(iii) if the cost approach was used by the department to value residential property, the documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or by checking a box on the notice; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) Except as provided in 15-2-302 and 15-23-102, if a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the Montana tax appeal board may consider the actual selling price of the property, independent appraisals of the property, negative property features that differentiate the subject property from the department's comparable sales, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the Montana tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.

History: En. Sec. 5, Ch. 191, L. 1957; amd. Sec. 17, Ch. 405, L. 1973; R.C.M. 1947, 84-429.11; amd. Sec. 3, Ch. 710, L. 1979; amd. Sec. 1, Ch. 105, L. 1983; amd. Sec. 11, Ch. 526, L. 1983; amd. Sec. 3, Ch. 29, Sp. L. June 1986; amd. Sec. 2, Ch. 613, L. 1987; amd. Sec. 1, Ch. 9, L. 1989; amd. Sec. 1, Ch. 636, L. 1989; amd. Secs. 1, 7, Ch. 680, L. 1991; amd. Sec. 2, Ch. 227, L. 1993; amd. Sec. 8, Ch. 594, L. 1993; amd. Sec. 39, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 30, L. 1995; amd. Sec. 10, Ch. 574, L. 1995; amd. Sec. 2, Ch. 414, L. 1997; amd. Sec. 3, Ch. 463, L. 1997; amd. Sec. 1, Ch. 56, L. 1999; amd. Sec. 85, Ch. 584, L. 1999; amd. Sec. 3, Ch. 444, L. 2001; amd. Sec. 20, Ch. 114, L. 2003; amd. Sec. 13, Ch. 532, L. 2005; amd. Sec. 4, Ch. 584, L. 2005; amd. Sec. 6, Ch. 483, L. 2009; amd. Sec. 2, Ch. 356, L. 2011; amd. Sec. 1, Ch. 399, L. 2011; amd. Sec. 1, Ch. 336, L. 2015; amd. Sec. 14, Ch. 361, L. 2015; amd. Sec. 5, Ch. 7, L. 2017; amd. Sec. 1, Ch. 20, L. 2017; amd. Sec. 8, Ch. 275, L. 2017; amd. Sec. 2, Ch. 441, L. 2017; amd. Sec. 1, Ch. 444, L. 2019; amd. Sec. 5, Ch. 104, L. 2021; amd. Sec. 27, Ch. 142, L. 2021; amd. Sec. 1, Ch. 265, L. 2021; amd. Sec. 3, Ch. 424, L. 2023; amd. Sec. 2, Ch. 638, L. 2023; amd. Sec. 6, Ch. 691, L. 2023; amd. Sec. 16, Ch. 767, L. 2025; amd. Sec. 6, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 16, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 6, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 15, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Notice of reclassification of property as nonagricultural, 15-7-208.

County Tax Appeal Boards to be in session until 60 days after mailing of notices, 15-15-101.

15-7-103. Classification and appraisal — general and uniform methods. (1) The department shall implement the provisions of 15-7-101, 15-7-102, and this section by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses.

(3) Land classified as agricultural land or forest land must be subclassified according to soil type and productive capacity. In the classification work, use must be made of soil surveys and maps and all other site-specific and pertinent available information, including any information provided by the taxpayer such as:

(a) information detailing actual climate conditions;

(b) information from the United States department of agriculture, including but not limited to:

(i) natural resources conservation service rangeland inventory materials;
(ii) farm service agency materials; and
(iii) Montana agriculture statistics information; and
(c) any other documents or publicly available information that will assist in reaching a value that accurately approximates the productive capacity that the average Montana farmer or rancher could achieve.

(4) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(5) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(6) In the reappraisal of taxable property, all property classified in 15-6-134 must be valued as provided in 15-7-111 on its market value. The department shall publish a rule specifying the valuation date used in the appraisal.

(7) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land or from the house or other improvements in which they are located.

History: En. Sec. 6, Ch. 191, L. 1957; amd. Sec. 3, Ch. 512, L. 1973; amd. Sec. 5, Ch. 516, L. 1973; R.C.M. 1947, 84-429.12; amd. Sec. 1, Ch. 710, L. 1979; amd. Sec. 1, Ch. 32, L. 1983; amd. Sec. 4, Ch. 20, L. 1985; (6)En. Sec. 1, Ch. 583, L. 1985; amd. Sec. 3, Ch. 613, L. 1987; amd. Sec. 86, Ch. 584, L. 1999; amd. Sec. 3, Ch. 356, L. 2011; amd. Sec. 1, Ch. 357, L. 2013; amd. Sec. 15, Ch. 361, L. 2015.

Cross-References

Sewage disposal systems and domestic water supply systems taxed as class four property, 15-6-134.

15-7-104. Repealed. Sec. 80, Ch. 130, L. 2005.

History: En. Sec. 7, Ch. 191, L. 1957; R.C.M. 1947, 84-429.13.

15-7-105. Purpose. In order to produce more uniform appraisal of property throughout the state by encouraging technical training in the principles, methods, and techniques of appraising property and promoting a higher level of professionalism among appraisers, the legislature hereby establishes a system of instruction, examination, and certification for all appraisers. The legislature finds further that members of the Montana tax appeal board must be permitted to benefit from the department's training and receive any instruction that the board considers relevant.

History: En. Sec. 1, Ch. 602, L. 1979; amd. Sec. 7, Ch. 691, L. 2023.

15-7-106. Courses of instruction, examination, and certification — additional courses. (1) The department shall offer courses in the principles, methods, and techniques of appraising for property tax purposes property in three fields:
(a) residential property;
(b) agricultural land; and
(c) commercial and industrial property.

(2) The department shall conduct an examination for those who have completed a course of instruction in any of the three fields listed in subsection (1).

(3) A person may not take the examination for appraising commercial and industrial property unless the person holds a certificate in appraising residential property.

(4) The department may schedule and conduct other courses within the state for appraisers, assessors, and department personnel for training in the following subjects:
(a) personal property assessment;
(b) property tax administration; and
(c) personnel management, fiscal management, public relations, professional ethics, and related management principles.

(5) The department shall issue a certificate to each appraiser, assessor, or other person successfully completing a course of instruction and passing an examination in any of the fields provided for in subsection (1) or any subject provided for in subsection (4).

(6) The department shall permit members of the Montana tax appeal board to attend any training provided for in this section without regard to whether a board member has attained

a certificate or completed a prerequisite course. Members of the board may not be required to take an examination and the department shall pay for any tuition costs from the department's budget.

History: En. Sec. 2, Ch. 602, L. 1979; amd. Sec. 40, Ch. 27, Sp. L. November 1993; amd. Sec. 8, Ch. 691, L. 2023.

15-7-107. Certification required. (1) An appraiser employed by the department to appraise:

(a) residential property shall obtain a certificate in appraising residential property;

(b) agricultural land shall obtain a certificate in appraising agricultural land; and

(c) commercial and industrial property shall obtain a certificate in appraising commercial and industrial property.

(2) The department may promulgate rules requiring appraisers to complete continuing education courses in laws, rules, and methods relating to appraisal.

History: En. Sec. 3, Ch. 602, L. 1979; amd. Sec. 41, Ch. 27, Sp. L. November 1993.

15-7-108. Land split. For the purposes of this title, a land split is the conveyance or transfer of a portion of a parcel of land that will require the department to change its ownerships records for the original parcel to show the creation of one or more new parcels under a new ownership.

History: En. Sec. 1, Ch. 414, L. 1997.

15-7-109 reserved.

15-7-110. Purpose — reappraisal cycle. It is in the best interest of the state of Montana to mitigate the fluctuations in market value for class three and class four properties that occur during a 6-year reappraisal cycle. The amendment of 15-7-111 in section 16, Chapter 361, Laws of 2015, mitigates the market's fluctuations in value by implementing a 2-year reappraisal cycle. The intent of the amendments in sections 6 and 7, Chapter 361, Laws of 2015, is for the statewide taxable value for all residential, commercial, industrial, and agricultural property for the reappraisal cycle beginning January 1, 2015, to remain the same as in the reappraisal cycle beginning January 1, 2009, and to adjust the tax rates as needed to accomplish this intent.

History: En. Sec. 1, Ch. 361, L. 2015.

15-7-111. Periodic reappraisal of certain taxable property. (1) (a) The department shall administer and supervise a program for the reappraisal of all taxable property within class three under 15-6-133, class four under 15-6-134, and class ten under 15-6-143 as provided in this section. Except as provided in subsection (1)(b):

(i) all real property and all property within class three, class four, and class ten must be revalued every 2 years; and

(ii) all other property must be revalued annually.

(b) All centrally assessed property and all real property valued with centrally assessed property must be revalued in the time periods provided for in 15-23-101(2).

(2) The department shall value newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation of new, remodeled, or reclassified property within the same class.

(3) The reappraisal of class three, class four, and class ten property is complete on December 31 of every second year of the reappraisal cycle.

(4) During the second year of each reappraisal cycle, the department shall provide the revenue interim committee with a report, in accordance with 5-11-210, of tax rates for the upcoming reappraisal cycle that will result in taxable value neutrality for each property class. The revenue interim committee shall make a recommendation to the next legislature about whether to revise property tax rates based on the report.

(5) The department shall administer and supervise a program for the reappraisal of all taxable property within class three, class four, and class ten. The department shall adopt a reappraisal plan by rule. The reappraisal plan adopted must provide that all class three, class four, and class ten property in each county is revalued by January 1 of the second year of the reappraisal cycle, effective for January 1 of the following year, and each succeeding 2 years.

(6) (a) In completing the appraisal or adjustments under subsection (5), the department shall, as provided in the reappraisal plan, conduct individual property inspections, building

permit reviews, sales data verification reviews, and electronic data reviews. The department may adopt new technologies for recognizing changes to property.

(b) The department shall conduct a field inspection of a sufficient number of taxable properties to meet the requirements of subsection (5).

(7) (a) In each notice of reappraisal sent to a taxpayer, the department, with the support of the department of administration, shall provide to the taxpayer information on:

(i) the consumer price index adjusted for population and the average annual growth rate of Montana personal income; and

(ii) the estimated annualized change in property taxes levied over the previous 10 years by the state, county, and any incorporated cities or towns within the county and local school average mills by county.

(b) In every even-numbered year, the department shall publish in a newspaper of general circulation in each county the information required pursuant to subsection (7)(a) by the second Monday in October.

History: En. 84-429.14 by Sec. 1, Ch. 294, L. 1975; R.C.M. 1947, 84-429.14; amd. Sec. 1, Ch. 596, L. 1987; amd. Sec. 4, Ch. 613, L. 1987; amd. Sec. 2, Ch. 636, L. 1989; amd. Secs. 2, 8, Ch. 680, L. 1991; amd. Sec. 4, Ch. 13, Sp. L. July 1992; amd. Sec. 4, Ch. 463, L. 1997; amd. Sec. 87, Ch. 584, L. 1999; amd. Sec. 4, Ch. 11, Sp. L. May 2000; amd. Sec. 5, Ch. 606, L. 2003; amd. Sec. 1, Ch. 554, L. 2005; amd. Sec. 23, Ch. 2, L. 2009; amd. Sec. 7, Ch. 483, L. 2009; amd. Sec. 16, Ch. 361, L. 2015; amd. Sec. 9, Ch. 163, L. 2019; amd. Sec. 1, Ch. 446, L. 2021; amd. Sec. 4, Ch. 424, L. 2023; amd. Sec. 3, Ch. 638, L. 2023; amd. Sec. 1, Ch. 42, L. 2025; amd. Sec. 2, Ch. 562, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 42, L. 2025. Amendment effective April 3, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 562, L. 2025. Amendment effective October 1, 2025.

Retroactive Applicability: Section 3, Ch. 42, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024."

Cross-References

Revaluation as prerequisite to adjustment of timberland tax formula, 15-6-143.

Reclassification of agricultural land not same as revaluation, 15-7-202.

Effect on market value standard, 15-8-111.

15-7-112. Equalization of valuations. The method of appraisal and assessment provided for in 15-7-111 must be used in each county of the state so that comparable properties with similar full market values and subject to taxation in Montana have substantially equal taxable values in the tax year.

History: En. 84-429.15 by Sec. 2, Ch. 294, L. 1975; R.C.M. 1947, 84-429.15; amd. Sec. 17, Ch. 361, L. 2015; amd. Sec. 4, Ch. 638, L. 2023.

15-7-113. Program exclusive. No program for the revaluation of property shall be implemented for taxation in any county other than as prescribed in 15-7-111 through 15-7-114.

History: En. 84-429.16 by Sec. 3, Ch. 294, L. 1975; R.C.M. 1947, 84-429.16.

15-7-114. Law supplemental. Sections 15-7-111 through 15-7-114 are intended to be supplementary to and are not intended to repeal 15-7-103.

History: En. 84-429.17 by Sec. 4, Ch. 294, L. 1975; R.C.M. 1947, 84-429.17.

15-7-115 through 15-7-120 reserved.

15-7-121. Repealed. Sec. 27, Ch. 693, L. 1979.

History: En. 84-309 by Sec. 72, Ch. 566, L. 1977; R.C.M. 1947, 84-309.

15-7-122. Repealed. Sec. 253, Ch. 574, L. 2001.

History: En. 84-310 by Sec. 73, Ch. 566, L. 1977; R.C.M. 1947, 84-310.

15-7-123 through 15-7-130 reserved.

15-7-131. Policy. It is the policy of the state of Montana to provide for equitable assessment of taxable property in the state and to provide for the reappraisal of taxable property in a manner that is fair to all taxpayers.

History: En. Sec. 1, Ch. 13, L. 1989; amd. Sec. 18, Ch. 361, L. 2015.

15-7-132. Repealed. Sec. 10, Ch. 680, L. 1991.

History: En. Sec. 2, Ch. 13, L. 1989; amd. Sec. 5, Ch. 13, Sp. L. July 1992.

15-7-133. Repealed. Sec. 10, Ch. 680, L. 1991.

History: En. Sec. 3, Ch. 13, L. 1989; amd. Sec. 6, Ch. 13, Sp. L. July 1992.

15-7-134. Repealed. Sec. 123, Ch. 2, L. 2009.
History: En. Sec. 7, Ch. 13, Sp. L. July 1992.

15-7-135 and 15-7-136 reserved.

15-7-137. Department of revenue notification of new construction by local governments and department of labor and industry. (1) When a local government or the department of labor and industry issues a building permit or an electrical permit for new construction, the local government or the department of labor and industry shall send a copy of the building permit or electrical permit through electronic or other means to the department of revenue within 90 days of the issuance of the permit. The notification must include clear and consistent location information for the parcel in a format agreed to by the department, which may include an address, geocode, or legal description.

(2) For the purposes of this section, "local government" means any city, town, county, or consolidated city-county.

History: En. Sec. 1, Ch. 398, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

15-7-138. Notice of classification and appraisal to single address for owners of undivided interest. (1) (a) (i) Subject to subsection (2), in the case of multiple, undivided interests in a parcel of land, the department shall send the notice of classification and appraisal required by 15-7-102 to a single owner of the land, as provided in this section.

(ii) For multiple undivided interests that are mining claims, upon request of all the owners, the department shall send the notice of classification and appraisal required by 15-7-102 and separate assessments to each owner of an undivided interest.

(iii) Requests for separate assessment and receipt of separate notice under subsection (1)(a)(ii) are limited to mining claims as the multiple undivided interests existed on or prior to April 30, 2001. Additional division of interests after April 30, 2001, may not result in additional separate assessments.

(b) Except as provided in subsection (1)(c), the owners of the land shall provide to the department the name and address of the owner to whom the notice is to be sent and shall notify the department of a change in name or address. If an address is not provided, then the department shall send the notice to the address to which previous notices were sent.

(c) In the case of multiple, undivided interests in a parcel of land created after April 30, 2001, the department shall send the notice to the name and address shown on the recorded document creating the multiple, undivided interests in the land. If more than one name and address is shown on the document, the department shall send the notice to the first name and address shown on the document.

(2) A copy of the notice must be sent to other persons upon request of an owner of the land. If a parcel of land is located within the boundaries of a federally recognized Indian reservation, each individual fee patent, even when it is an undivided interest, will be treated as a separate assessment and receive a separate notice of classification and appraisal.

History: En. Sec. 1, Ch. 444, L. 2001; amd. Sec. 2, Ch. 315, L. 2003.

15-7-139. Requirements for entry on property by property valuation staff employed by department — authority to estimate value of property not entered — rules. (1) Subject to the conditions and restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the department and acting within the course and scope of the employees' official duties.

(2) A person qualified under subsection (1) may enter private land to appraise or audit property for property tax purposes.

(3) (a) No later than November 30 of each year, the department shall publish in a newspaper of general circulation in each county a notice that the department may enter property for the purpose of appraising or auditing property.

(b) The published notice must indicate:

(i) that a landowner may require that the landowner or the landowner's agent be present when the person qualified in subsection (1) enters the land to appraise or audit property;

(ii) that the landowner shall notify the department in writing of the landowner's requirement that the landowner or landowner's agent be present; and

(iii) that the landowner's written notice must be mailed to the department at an address specified and be postmarked not more than 30 days following the date of publication of the notice. The department may grant a reasonable extension of time for returning the written notice.

(4) The written notice described in subsection (3)(b)(ii) must be legible and include:

(a) the landowner's full name;

(b) the mailing address and property address; and

(c) a telephone number at which an appraiser may contact the landowner during normal business hours.

(5) When the department receives a written notice as described in subsection (4), the department shall contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise or audit the property.

(6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land pursuant to subsection (5), the department shall estimate the value of the real and personal property located on the land.

(7) (a) Subject to subsection (7)(b), a county tax appeal board and the Montana tax appeal board may not adjust the estimated value of the real or personal property determined under subsection (6) unless the landowner or the landowner's agent:

(i) gives permission to the department to enter the land to appraise or audit the property; or

(ii) provides to the department and files with the county tax appeal board or the Montana tax appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate appraisers. The appraisal must be conducted in accordance with current uniform standards of professional appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal must be conducted within 1 year of the reappraisal valuation date provided for in 15-7-103(6) and must establish a separate market value for each improvement and the land.

(b) A county tax appeal board and the Montana tax appeal board may not use a denial of permission to enter into improvements, personal property, buildings, or structures as a basis to not adjust the estimated value of the real or personal property when permission is limited to entering the land and conducting an exterior inspection of the improvements, personal property, buildings, or structures.

(8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the person identification sufficient to identify the person and the person's employer and shall present the identification upon request.

(9) The authority granted by this section does not authorize entry into improvements, personal property, or buildings or structures without the permission of the owner or the owner's agent.

(10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to respond to notices from the department.

History: En. Sec. 1, Ch. 5, L. 2003; amd. Sec. 1, Ch. 593, L. 2003; amd. Sec. 4, Ch. 356, L. 2011; amd. Sec. 19, Ch. 361, L. 2015; amd. Sec. 6, Ch. 104, L. 2021; amd. Sec. 28, Ch. 142, L. 2021; amd. Sec. 48, Ch. 142, L. 2021.

15-7-140. Notice appraisal and audit — statement of rights. Each county treasurer shall include in the notice required by 15-16-101(1), 15-16-119, and 15-24-202 a statement that property valuation staff employed by the department may enter private property to appraise or audit property for property tax purposes as provided in 15-7-139. The notice must include a statement of landowner rights in words substantially similar to: "You or your agent have the right to be present when your property is appraised or audited. If you wish to make an appointment for the next tax year, call (insert local department of revenue office phone number) or write your local department of revenue office between December 1 and December 31 of this year."

History: En. Sec. 2, Ch. 5, L. 2003.

15-7-141. County notification of proposed valuation decrease — meeting. (1) Except as provided in subsection (6), if the preliminary change in market value of any property in a county has decreased by more than $1.5 million since the last reappraisal, the department shall send an electronic notice to the county where the property is located. The notice may be sent in an electronic format that includes more than one property on the notice. The department shall send a copy of the county notice to each municipality located within the boundaries of the county that has received the notice.

(2) The county notice must:

(a) be sent no later than when the original or revised classification and appraisal notice is sent to the property owner pursuant to 15-7-102; and

(b) provide the market value for the prior reappraisal cycle and the preliminary market value.

(3) The department shall meet with the county when requested.

(4) The department shall provide the county with any public information that was relied on by the department to establish a preliminary market value before the meeting provided for in subsection (3).

(5) For properties that are subject to central assessment, the department shall send the notice described in subsection (1) after completing the apportionment process.

(6) This section does not apply to class four residential property.

History: En. Sec. 1, Ch. 384, L. 2025.

Compiler's Comments

Effective Date: This section is effective October 1, 2025.

Applicability: Section 3, Ch. 384, L. 2025, provided: "[This act] applies to property tax years beginning on or after January 1, 2026."

Part 2
Agricultural Appraisal

Part Cross-References

Legislature to enact laws to enhance and develop agriculture, Art. XII, sec. 1, Mont. Const.

Classification and taxable percentage of agricultural land, 15-6-133.

Assessment of agricultural land, 15-8-111.

15-7-201. Legislative intent — value of agricultural property. (1) Because the market value of many agricultural properties is based on speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by productive capacity. Productive capacity is determined based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula V = I/R where:

(a) V is the per-acre productive capacity value of agricultural land in each subclass;

(b) I is the per-acre net income of agricultural land in each subclass and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

(5) (a) Net income must be determined separately for each subclass.

(b) (i) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.

(ii) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop and livestock reporting service,

and other sources of publicly available information if considered appropriate by the advisory committee.

(iii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.

(iv) Allowable water costs are $50 for each acre of irrigated land.

(c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal unit months, defined as the average monthly requirement of pasture forage to support a 1,200-pound cow with a calf or its equivalent.

(d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent 10 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.

(6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

(a) compile and review data required by subsections (4) and (5);

(b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

(c) recommend appropriate base periods and averaging methods to the department;

(d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

(e) verify for each class and subclass of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained;

(f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated.

(g) provide methods for adjusting agricultural land productivity values when more site-specific data is available and pertinent; and

(h) recommend to the department definitions for "site-specific" and "pertinent".

History: En. Sec. 1, Ch. 512, L. 1973; R.C.M. 1947, 84-437.1; amd. Sec. 1, Ch. 644, L. 1983; amd. Sec. 1, Ch. 681, L. 1985; amd. Sec. 1, Ch. 705, L. 1985; amd. Sec. 1, Ch. 172, L. 1991; amd. Sec. 3, Ch. 680, L. 1991; amd. Sec. 2, Ch. 267, L. 1993; amd. Secs. 1, 2, Ch. 563, L. 1995; amd. sec. 36, Ch. 308, L. 1995; amd. Sec. 1, Ch. 459, L. 2001; amd. Sec. 8, Ch. 483, L. 2009; amd. Sec. 5, Ch. 356, L. 2011; amd. Sec. 2, Ch. 357, L. 2013; amd. Sec. 20, Ch. 361, L. 2015; amd. Sec. 1, Ch. 169, L. 2019.

15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to $1,500 in annual gross income as determined by the Montana state university-Bozeman college of agriculture.

(4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(5) (a) Upon application by the property owner, the following parcels of land are eligible for provisional agricultural classification for 5 years to allow crops to reach salable maturity:

(i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree husbandry practices, including pest and disease management, fencing, and a watering system;

(ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices, including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

(iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted husbandry practices, including regular shearing.

(b) Following the 5th year of provisional agricultural classification, the property owner shall submit an application for agricultural classification. The application must include documentation proving that the property continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a) have been met.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use.

History: En. Sec. 4, Ch. 512, L. 1973; amd. Sec. 2, Ch. 56, L. 1974; amd. Sec. 1, Ch. 457, L. 1975; R.C.M. 1947, 84-437.2; amd. Sec. 1, Ch. 608, L. 1979; amd. Sec. 16, Ch. 693, L. 1979; amd. Sec. 4, Ch. 681, L. 1985; amd. Sec. 1, Ch. 699, L. 1985; amd. Sec. 1, Ch. 35, Sp. L. June 1986; amd. Sec. 1, Ch. 590, L. 1991; amd. Sec. 2, Ch. 705, L. 1991; amd. Sec. 16, Ch. 773, L. 1991; amd. Sec. 3, Ch. 627, L. 1993; amd. Sec. 1, Ch. 474, L. 1995; amd. Sec. 2, Ch. 485, L. 1995; amd. Sec. 2, Ch. 376, L. 2005; amd. Sec. 1, Ch. 543, L. 2005; amd. Sec. 1, Ch. 478, L. 2007; amd. Sec. 1, Ch. 510, L. 2007; amd. Sec. 1, Ch. 9, L. 2015; amd. Sec. 1, Ch. 224, L. 2019; amd. Sec. 2, Ch. 86, L. 2021.

Cross-References

Definition of agricultural and poultry, 15-1-101.

Timberland — class ten property, 15-6-143.

Montana Subdivision and Platting Act, Title 76, ch. 3.

15-7-203. Agricultural uses only considered in valuation. In valuing land as agricultural, the department of revenue shall consider only those indicia of value which such land has for agricultural use.

History: En. Sec. 5, Ch. 512, L. 1973; amd. Sec. 3, Ch. 56, L. 1974; R.C.M. 1947, 84-437.3.

15-7-204. Repealed. Sec. 6, Ch. 201, L. 1981.

History: En. Sec. 6, Ch. 512, L. 1973; R.C.M. 1947, 84-437.4.

15-7-205. Repealed. Sec. 6, Ch. 201, L. 1981.

History: En. Sec. 7, Ch. 512, L. 1973; amd. Sec. 4, Ch. 126, L. 1977; R.C.M. 1947, 84-437.5.

15-7-206. Improvements on agricultural land. (1) In determining the total area of land actively devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs, greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

(2) One acre of land beneath residential improvements on agricultural land, as described in 15-7-202(1)(c)(ii), is valued at the class with the highest productive value and production capacity of agricultural land.

History: En. Sec. 8, Ch. 512, L. 1973; amd. Sec. 2, Ch. 457, L. 1975; R.C.M. 1947, 84-437.6; amd. Sec. 3, Ch. 485, L. 1995; amd. Sec. 2, Ch. 224, L. 2019.

15-7-207. Continuance of valuation as agricultural land. Continuance of valuation, assessment, and taxation under this part shall depend upon continuance of the land in agricultural use and compliance with the other requirements of this part and not upon continuance in the same owner of title to the land.

History: En. Sec. 10, Ch. 512, L. 1973; R.C.M. 1947, 84-437.8; amd. Sec. 3, Ch. 201, L. 1981.

15-7-208. Reclassification by department. The department may reclassify land as nonagricultural upon giving due notice to the property owner or any purchaser under contract for deed under the provisions of 15-7-102. Upon notice of a change in classification of land from agricultural to another use, the property owner may petition the department to reclassify the land as agricultural by completing a form prescribed by the department and by producing whatever information is necessary to prove that the subject land meets the definition of agricultural land embodied in 15-7-202.

History: En. 84-437.15 by Sec. 4, Ch. 56, L. 1974; R.C.M. 1947, 84-437.15; amd. Sec. 12, Ch. 526, L. 1983; amd. Sec. 42, Ch. 27, Sp. L. November 1993.

15-7-209. Reclassification by owner — lien. (1) Whenever land that is or has been in agricultural use and is or has been valued, assessed, and taxed for agricultural use is applied to a use other than agricultural, the owner shall notify the department.

(2) The department shall provide, in a form eligible for recording, releases of lien, for those liens attributable to the former rollback tax, and the department shall present the releases to the county clerk and recorder for recording.

History: En. 84-437.16 by Sec. 5, Ch. 56, L. 1974; R.C.M. 1947, 84-437.16; amd. Sec. 1, Ch. 201, L. 1981; amd. Sec. 1, Ch. 423, L. 1981; amd. Sec. 1, Ch. 585, L. 1981; amd. Sec. 43, Ch. 27, Sp. L. November 1993.

15-7-210. Tax on change of use of part of tract. Separation or split-off of a part of the land which is being valued, assessed, and taxed under this part, either by conveyance or other actions of the owner of such land, for a use other than agricultural shall subject the land so separated to reclassification by the department but shall not impair the right of the remaining land to continuance of valuation, assessment, and taxation hereunder, provided it meets the minimum requirements of this part.

History: En. Sec. 11, Ch. 512, L. 1973; R.C.M. 1947, 84-437.9; amd. Sec. 4, Ch. 201, L. 1981.

15-7-211. Repealed. Sec. 6, Ch. 201, L. 1981.

History: En. Sec. 12, Ch. 512, L. 1973; R.C.M. 1947, 84-437.10.

15-7-212. Tract crossing county line — whole. Where contiguous land in agricultural use in one ownership is located in more than one county, compliance with the minimum requirements shall be determined on the basis of the total area and value of farm crops on such land and not the area or value of farm crops on land which is located in the particular county.

History: En. Sec. 13, Ch. 512, L. 1973; R.C.M. 1947, 84-437.11.

15-7-213. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 14, Ch. 512, L. 1973; R.C.M. 1947, 84-437.12.

15-7-214. Repealed. Sec. 6, Ch. 201, L. 1981.

History: En. Sec. 15, Ch. 512, L. 1973; R.C.M. 1947, 84-437.13.

15-7-215. Repealed. Sec. 6, Ch. 201, L. 1981.

History: En. Sec. 16, Ch. 512, L. 1973; R.C.M. 1947, 84-437.14; amd. Sec. 5, Ch. 581, L. 1979.

15-7-216. Repealed. Sec. 2, Ch. 695, L. 1979.

History: En. Sec. 1, Ch. 191, L. 1957; amd. Sec. 14, Ch. 405, L. 1973; amd. Sec. 1, Ch. 353, L. 1975; amd. Sec. 1, Ch. 123, L. 1977; R.C.M. 1947, 84-429.7(2).

15-7-217 through 15-7-220 reserved.

15-7-221. Repealed. Secs. 4, 5, Ch. 563, L. 1995.

History: En. Sec. 3, Ch. 267, L. 1993; amd. Sec. 5, Ch. 485, L. 1995; amd. Sec. 3, Ch. 563, L. 1995.

15-7-222. Terminated. Sec. 12, Ch. 267, L. 1993.

History: En. Sec. 4, Ch. 267, L. 1993.

Part 3
Realty Transfer Act

15-7-301. Short title. This part may be cited as the "Realty Transfer Act".

History: En. 84-7301 by Sec. 1, Ch. 528, L. 1975; R.C.M. 1947, 84-7301.

15-7-302. Purpose. The purpose of this part is to obtain sales price data necessary to the determination of statewide levels and uniformity of real estate assessments by the most efficient, economical, and reliable method.

History: En. 84-7302 by Sec. 2, Ch. 528, L. 1975; R.C.M. 1947, 84-7302.

15-7-303. Definitions. As used in this part, the following definitions apply:

(1) "Person" means an individual, corporation, partnership, or other business organization, trust, fiduciary, or agent or any other party presenting a document for recordation.

(2) "Real estate" includes:

(a) land;

(b) growing timber;

(c) buildings, structures, fixtures, fences, and improvements affixed to land.

(3) "Transfer" means an act of the parties or of the law by which the title to real property is conveyed from one person to another.

(4) "Value" means the amount of the full actual consideration for real estate paid or to be paid, including the amount of any lien or liens on the real estate.

History: En. 84-7303 by Sec. 3, Ch. 528, L. 1975; R.C.M. 1947, 84-7303; amd. Sec. 57, Ch. 42, L. 1997.

Cross-References

Notice to purchaser of property under contract for deed, 70-20-115.

Recording transfers and other transactions relating to real property, Title 70, Ch. 21.

15-7-304. Report of transfers — change of ownership records. (1) All transfers of real property that are not evidenced by a recorded document, except those transfers otherwise provided for in this part, must be reported to the department on the form prescribed.

(2) The department is not required to change any ownership records used for the assessment or taxation of real property unless the department has received a transfer certificate from the clerk and recorder and the transfer has been reported to the department as provided by rule. If the grantor on the transfer certificate is not the person to whom the property is assessed on the property tax record, the department may not substitute the grantee's name on the certificate for the name of the current person listed on the property tax record, but the department shall add the grantee's name to the property tax record with the name of the person to whom the property is assessed. The department shall mail notification of the change to the person to whom the property is assessed and to the grantee. The department shall substitute the grantee's name on the property tax record when reliable evidence demonstrates that the grantee is the owner of the property for tax purposes.

History: En. 84-7304 by Sec. 4, Ch. 528, L. 1975; R.C.M. 1947, 84-7304; amd. Sec. 44, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 532, L. 1995.

15-7-305. Realty transfer certificate required. (1) The county clerk and recorder shall require the parties to the transaction or their agents or representatives to complete a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate has been received by the county clerk and recorder. The validity or effectiveness of an instrument or deed between the parties to it is not affected by failure to comply with the provisions in this part.

(3) (a) Except as provided in 85-2-423, the form of certificate must be prescribed by the department of revenue, and the department shall provide an adequate supply of forms to each county clerk and recorder in the state.

(b) The department shall coordinate with the department of natural resources and conservation and the water court to develop water right ownership update forms. The water right ownership update form must be part of or attached to the realty transfer certificate.

(4) The clerk and recorder shall prepare a certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department.

History: En. 84-7305 by Sec. 5, Ch. 528, L. 1975; R.C.M. 1947, 84-7305; amd. Sec. 1, Ch. 167, L. 1997; amd. Sec. 1, Ch. 70, L. 2005.

15-7-306. Rules. The department of revenue may prescribe such rules as are reasonably necessary to facilitate and expedite the provisions and administration of this part.

History: En. 84-7306 by Sec. 6, Ch. 528, L. 1975; R.C.M. 1947, 84-7306.

15-7-307. Certificate — exceptions. The certificate required by this part applies to all transfers. However, the certificate filed for the following transfers need not disclose the consideration paid or to be paid for the real estate transferred:

(1) an instrument recorded prior to July 1, 1975;

(2) the sale of agricultural land when the land is used for agricultural purposes;

(3) the sale of timberland when the land is used for producing timber;

(4) a transfer by the United States, this state, or any instrumentality, agency, or subdivision of the United States or this state;

(5) an instrument that (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;

(6) a transfer pursuant to a court decree;

(7) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;

(8) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;

(9) a transfer of decedents' estates;

(10) a transfer of a gift;

(11) a transfer between husband and wife or parent and child with only nominal actual consideration for the transfer;

(12) an instrument the effect of which is to transfer the property to the same party or parties;

(13) a sale for delinquent taxes or assessments, a sheriff's sale, or a sale pursuant to a bankruptcy court order;

(14) a transfer made in contemplation of death.

History: En. 84-7307 by Sec. 7, Ch. 528, L. 1975; R.C.M. 1947, 84-7307; amd. Sec. 5, Ch. 681, L. 1985; amd. Sec. 2, Ch. 532, L. 1995; amd. Sec. 21, Ch. 114, L. 2003; amd. Sec. 2, Ch. 399, L. 2011.

Cross-References

Timberland — class ten property, 15-6-143.

15-7-308. Disclosure of information restricted — exceptions. (1) Except as provided in subsection (2), the certificate required by this part and the information contained in the certificate are not a public record and must be held confidential by the county clerk and recorder and the department. This is because the legislature finds that the demands of individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to compilations from the certificates, to summaries, analyses, and evaluations based upon the compilations, or to sales data used by the department to value residential property in a property taxpayer's market model area after the property taxpayer signs a written or electronic confidentiality agreement.

(2) The confidentiality provisions of this section do not apply to the information contained in the water right ownership update form or any other form prepared and filed with the department of natural resources and conservation pursuant to 85-2-424 for purposes of maintaining a system of centralized water right records as mandated by Article IX, section 3(4), of the Montana constitution. A person may access water right transfer information through the department of natural resources and conservation pursuant to the department's implementation of the requirements of 85-2-112(3).

History: En. 84-7308 by Sec. 8, Ch. 528, L. 1975; R.C.M. 1947, 84-7308; amd. Sec. 45, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 167, L. 1997; amd. Sec. 2, Ch. 70, L. 2005; amd. Sec. 1, Ch. 366, L. 2007; amd. Sec. 2, Ch. 336, L. 2015.

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

15-7-309. Classification or assessment methods. (1) This part shall not change or modify the methods of classification or assessment of real estate as provided for in this title or in any law of this state.

(2) The sale price of real estate shall not be the sole determinant of assessed value. The department shall consider, wherein the consideration is to be paid in deferred installments over a period of 10 years or more, the terms of the contract, amount of downpayment, amount of each installment, rate of interest, and other covenants or exceptional circumstances which may affect the consideration paid for real estate.

History: En. 84-7309 by Sec. 9, Ch. 528, L. 1975; R.C.M. 1947, 84-7309.

15-7-310. Penalty. A person convicted of violating any provision of this part shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

History: En. 84-7310 by Sec. 12, Ch. 528, L. 1975; R.C.M. 1947, 84-7310.

15-7-311. Costs. Notwithstanding 1-2-112, the duties, obligations, or responsibilities imposed on local government entities by this part are such that related costs are incurred as a part of their normal operating procedures.

History: En. 84-7311 by Sec. 10, Ch. 528, L. 1975; R.C.M. 1947, 84-7311.

Part 4
Appraisal of Residential Property in Areas of Changing Use

15-7-401. Purpose. The legislature finds that the rapid commercial and industrial growth in many Montana cities and towns is engulfing homes. Owners of these homes are often forced to pay higher property taxes upon these homes because their property is appraised on its industrial or commercial use. The legislature intends that houses and lots in these areas of changing use shall be appraised on their value as residential property.

History: En. Sec. 1, Ch. 702, L. 1979.

15-7-402. Application for residential appraisal of certain land and improvements. (1) Any person wishing to ensure that the person's residential land and improvements are appraised as residential may file a signed application with the department.

(2) In the application, the owner shall:

(a) assert that the property is used only for human habitation and is the principal residence of the owner;

(b) sign a statement pledging that the property will continue to be used as residential property; and

(c) show that the statement has been filed with the county clerk and recorder of the county in which the property is located.

(3) When the department has approved an application for residential use, the department and its agents shall consider only those indicia of value that the property has for residential use.

(4) Failure to file an application under this section may not result in reclassification on real property unless there has been an actual change in use.

History: En. Sec. 2, Ch. 702, L. 1979; amd. Sec. 46, Ch. 27, Sp. L. November 1993.

15-7-403. Rollback tax — computation. (1) (a) Subject to 15-10-420, if land and improvements appraised as residential as a result of an application filed under 15-7-402 are changed to industrial or commercial use, the property is subject to a rollback tax in addition to the property tax levied on the property. The rollback tax is a lien on the property and is due and payable by the owner of the property at the time of the change in use.

(b) As used in this section, "rollback" means the period preceding the change in use, not to exceed 5 years, during which the property was appraised as residential.

(2) The department shall determine the amount of rollback tax due on the property by:

(a) determining the taxable value of the property as industrial or commercial property;

(b) multiplying this value by the sum of the annual mill levies applied in the taxing jurisdiction in which the land is located during the rollback period; and

(c) subtracting from this figure the actual property tax paid on the property during this period.

History: En. Sec. 3, Ch. 702, L. 1979; amd. Sec. 47, Ch. 27, Sp. L. November 1993; amd. Sec. 88, Ch. 584, L. 1999.

CHAPTER 8
ASSESSMENT PROCEDURE

Part 1 — General Provisions

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15-8-111. Appraisal — market value standard — exceptions.
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15-8-701. Property tax record — definition — listing property in.
15-8-702. Persons desiring to be listed.
15-8-703. Repealed.
15-8-704. Map book.
15-8-705. Repealed.
15-8-706. Repealed.
15-8-707. Correction of defects in property tax record.
15-8-708. Omissions in delinquent lists — correction by publication.
15-8-709. Statement of changes to be sent to county clerk and recorder.

15-8-710. Property tax record prima facie evidence.
15-8-711. List of owners of multiple, undivided interests in parcel of land to county treasurer.

Chapter Cross-References

Property tax administration, Art. VIII, sec. 3, Mont. Const.
Equal valuation, Art. VIII, sec. 4, Mont. Const.
Taxation of condominium units, 15-8-511, 15-8-512.
Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

Part 1
General Provisions

15-8-101. Department responsibilities. The department of revenue shall have full charge of assessing all property subject to taxation and equalizing values and shall secure such personnel as is necessary to properly perform its duties.

History: En. Sec. 1, Ch. 61, L. 1925; re-en. Sec. 2001.1, R.C.M. 1935; amd. Sec. 1, Ch. 100, L. 1939; amd. Sec. 2, Ch. 405, L. 1973; amd. Sec. 49, Ch. 566, L. 1977; R.C.M. 1947, 84-402(2).

Cross-References

Assessment of Department basis for taxation of cities and towns, 7-6-4409.

15-8-102. County to furnish office space — allowable charge. The county commissioners of each county shall provide existing office space in the county courthouse or other county building for use by the department's staff, if space is reasonably available. A county may charge the department a rate that does not exceed the rental rate that the department of administration charges state agencies for space in state buildings. If space is not reasonably available in the courthouse or other county building, the department may contract for the procurement of suitable space. For purposes of this section, "county building" includes a city-county building or a building maintained by a consolidated government.

History: (1), (2)En. Sec. 1, Ch. 61, L. 1925; re-en. Sec. 2001.1, R.C.M. 1935; amd. Sec. 1, Ch. 100, L. 1939; amd. Sec. 2, Ch. 405, L. 1973; amd. Sec. 49, Ch. 566, L. 1977; Sec. 84-402, R.C.M. 1947; (3)En. Sec. 3732, Pol. C. 1895; re-en. Sec. 2551, Rev. C. 1907; re-en. Sec. 2056, R.C.M. 1921; Cal. Pol. C. Sec. 3658; re-en. Sec. 2056, R.C.M. 1935; amd. Sec. 32, Ch. 405, L. 1973; Sec. 84-509, R.C.M. 1947; R.C.M. 1947, 84-402(1), (4), 84-509; amd. Sec. 48, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 586, L. 1999.

Cross-References

Agent required to explain and determine if taxpayer wishes to be covered under crop hail insurance levy, 80-2-204.
Agent required to add irrigation district assessment to assessment book, 85-7-2136.
Agent required to add drainage district assessment to assessment book, 85-8-601.

15-8-103. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(part).

15-8-104. Department audit and review of taxable value — costs paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and all other types of property subject to ad valorem taxation.

(2) The department may conduct reviews of the assessment of all commercial personal property to ensure that the value of the property in those classes reflects market value. Because the assessed value of commercial personal property is defined as market value under 15-8-111(2), the review conducted by the department may be directed toward ensuring that all taxable personal property is reported to the department.

(3) The cost of any audit or review performed under subsection (1) or (2) must be paid by the department.

History: (1)En. 84-708.9 by Sec. 1, Ch. 235, L. 1975; amd. Sec. 1, Ch. 107, L. 1977; Sec. 84-708.9, R.C.M. 1947; (2)En. 84-708.10 by Sec. 2, Ch. 235, L. 1975; Sec. 84-708.10, R.C.M. 1947; R.C.M. 1947, 84-708.9, 84-708.10; amd. Sec. 1, Ch. 222, L. 1979; amd. Sec. 10, Ch. 634, L. 1979; amd. Sec. 3, Ch. 613, L. 1981; amd. Sec. 9, Ch. 743, L. 1985; amd. Sec. 49, Ch. 27, Sp. L. November 1993; amd. Sec. 58, Ch. 42, L. 1997.

15-8-105. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 2, Ch. 623, L. 1989.

15-8-106. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.
History: En. Sec. 3, Ch. 623, L. 1989.

15-8-107 through 15-8-110 reserved.

15-8-111. Appraisal — market value standard — exceptions. (1) All taxable property must be appraised at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses the cost approach as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the income approach as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (4), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) (a) In valuing class four residential and commercial property described in 15-6-134, the department shall conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the department shall use information available from any source considered reliable. Comparable properties used for valuation must represent similar properties within an acceptable proximity of the property being valued. The department shall use the same valuation method to value residential properties in the same neighborhood or subdivision unless there is a compelling reason to use a different approach.

(b) When valuing residential property under the cost approach, the department shall document why the comparable sales model does not support usage of the comparable sales approach, including an analysis of whether the cost approach is used for other class four residential property in the market area.

(4) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the market value for agricultural implements and machinery is the average wholesale value category as provided in published national agricultural and implement valuation guides. The valuation guide must provide average wholesale values specific to the state of Montana or a region that includes the state of Montana. The department shall adopt by rule the valuation guides used as provided in this subsection (4)(a). If the average wholesale value category is unavailable, the department shall use a comparable wholesale value category.

(b) (i) for condominium property, the department shall establish the value as provided in subsection (5); and

(ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in a manner established by the department by rule; and

(c) as otherwise authorized in Titles 15 and 61.

(5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is available, the department shall use the sales comparison approach to appraise residential condominium units. Because the undivided interest in common elements is included in the sales price of the condominium units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the department, the department shall use the income approach to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the cost approach. When using the cost approach, the department shall value the units individually and allocate only the common area elements to the units based on the percentage of undivided interest in the condominium declaration.

(6) For purposes of taxation, assessed value is the same as appraised value.

(7) The taxable value for all property is the market value multiplied by the tax rate for each class of property.

(8) The market value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at 100% of market value.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(9) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(10) For the purpose of this section, the term "compelling reason" includes but is not limited to the following:

(a) there are no comparable sales in the neighborhood or subdivision;

(b) the comparable sales model prepared by the department shows that the subject property cannot be valued using the market sales approach; or

(c) other residential properties in the same neighborhood or subdivision are also valued using the cost approach and not the market sales approach.

History: En. Sec. 5, p. 76, L. 1891; re-en. Sec. 3690, Pol. C. 1895; re-en. Sec. 2502, Rev. C. 1907; re-en. Sec. 2001, R.C.M. 1921; Cal. Pol. C. Sec. 3627; re-en. Sec. 2001, R.C.M. 1935; amd. Sec. 2, Ch. 512, L. 1973; amd. Sec. 1, Ch. 56, L. 1974; amd. Sec. 1, Ch. 209, L. 1975; amd. Sec. 1, Ch. 436, L. 1975; amd. Sec. 5, Ch. 498, L. 1977; amd. Sec. 21, Ch. 566, L. 1977; R.C.M. 1947, 84-401; amd. Sec. 11, Ch. 634, L. 1979; amd. Secs. 10, 13, Ch. 686, L. 1979; amd. Sec. 17, Ch. 693, L. 1979; amd. Sec. 66, Ch. 575, L. 1981; amd. Sec. 2, Ch. 578, L. 1981; amd. Sec. 3, Ch. 323, L. 1983; amd. Sec. 1, Ch. 463, L. 1985; amd. Sec. 6, Ch. 516, L. 1985; amd. Sec. 6, Ch. 681, L. 1985; amd. Sec. 7, Ch. 743, L. 1985; amd. Sec. 4, Ch. 7, Sp. L. March 1986; amd. Sec. 3, Ch. 34, Sp. L. June 1986; amd. Sec. 5, Ch. 35, Sp. L. June 1986; amd. Sec. 37, Ch. 370, L. 1987; amd. Sec. 6, Ch. 453, L. 1987; amd. Sec. 1, Ch. 593, L. 1987; amd. Sec. 3, Ch. 618, L. 1987; amd. Sec. 4, Ch. 531, L. 1989; amd. Sec. 4, Ch. 695, L. 1991; amd. Sec. 16, Ch. 773, L. 1991; amd. Sec. 10, Ch. 783, L. 1991; amd. Sec. 4, Ch. 506, L. 1993; amd. Sec. 50, Ch. 27, Sp. L. November 1993; amd. Sec. 4, Ch. 397, L. 1995; amd. Sec. 1, Ch. 299, L. 1997; amd. Sec. 4, Ch. 496, L. 1997; amd. Sec. 1, Ch. 531, L. 1999; amd. Sec. 89, Ch. 584, L. 1999; amd. Sec. 1, Ch. 589, L. 1999; amd. Sec. 5, Ch. 11, Sp. L. May 2000; amd. Sec. 1, Ch. 379, L. 2005; amd. Sec. 14, Ch. 532, L. 2005; amd. Sec. 5, Ch. 584, L. 2005; amd. Sec. 1, Ch. 373, L. 2011; amd. Sec. 3, Ch. 399, L. 2011; amd. Sec. 21, Ch. 361, L. 2015; amd. Sec. 1, Ch. 26, L. 2017; amd. Sec. 7, Ch. 104, L. 2021; amd. Sec. 1, Ch. 529, L. 2023; amd. Sec. 1, Ch. 83, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 83, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 2, Ch. 83, L. 2025, provided: "[This act] applies to tax years beginning after December 31, 2025."

Cross-References

Definition of assessed value, 15-1-101.

Taxation of federal property held under contract of sale, lease, or other interest, Title 15, ch. 24, part 11.

Taxation of land subject to conservation easement, 76-6-208.

15-8-112. Assessments to be made on classification and appraisal. (1) The assessments of all lands, all city and town lots, and all improvements must be made on the classification and appraisal as made or caused to be made by the department.

(2) The percentage basis of assessed value as provided for in chapter 6, part 1, is determined and assigned by the department when it makes its assessment of the property that it is required to assess centrally. The department shall apportion the assessments to the various counties, and its determination is final except as to the right of review in the Montana tax appeal board or the proper court.

History: **(1)En. Sec. 3, Ch. 191, L. 1957; amd. Sec. 16, Ch. 405, L. 1973; Sec. 84-429.9, R.C.M. 1947; (2)En. Sec. 3, Ch. 61, L. 1925; re-en. Sec. 2001.3, R.C.M. 1935; amd. Sec. 49, Ch. 100, L. 1973; amd. Sec. 2, Ch. 516, L. 1973; amd. Sec. 8, Ch. 98, L. 1977; amd. Sec. 50, Ch. 566, L. 1977; Sec. 84-404, R.C.M. 1947; R.C.M. 1947, 84-404, 84-429.9; amd. Sec. 51, Ch. 27, Sp. L. November 1993; amd. Sec. 29, Ch. 142, L. 2021; amd. Sec. 5, Ch. 424, L. 2023.**

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

15-8-113. Appeal from percentage assignment. If any taxpayer disagrees with the percentage assignment made by the department, the taxpayer may appeal to the county tax appeal board on the percentage assignment the same as a taxpayer may now appeal on valuations and also may appeal from the county tax appeal board to the Montana tax appeal board, whose findings are final except as to the right of review in the proper courts.

History: **En. Sec. 2, Ch. 61, L. 1925; re-en. Sec. 2001.2, R.C.M. 1935; amd. Sec. 3, Ch. 405, L. 1973; R.C.M. 1947, 84-403; amd. Sec. 52, Ch. 27, Sp. L. November 1993; amd. Sec. 30, Ch. 142, L. 2021.**

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

County Tax Appeal Board, Title 15, ch. 15, part 1.

15-8-114. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 5, Ch. 61, L. 1925; re-en. Sec. 2001.5, R.C.M. 1935; amd. Sec. 3, Ch. 516, L. 1973; R.C.M. 1947, 84-405.**

15-8-115. Department to defend property tax appeals — costs and judgments. (1) Except as provided in 15-8-202, the department is the party defendant in any proceeding before a county tax appeal board, the Montana tax appeal board, or a court of law that seeks to dispute or adjust an action of the department under 15-8-101 arising from the exercise of the department's duties as prescribed by law or administrative rule. For the purposes of proceedings before county tax appeal boards, service on the department may be obtained by serving the person designated to receive service for the department.

(2) Costs, if any, must be assessed against the department and not against a local taxing unit.

(3) In a suit brought in a court of this state for the refund of taxes paid under protest in which the taxes paid are held by the treasurer of a unit of local government in a protest fund, the court shall enter judgment, exclusive of costs, against the treasurer if the court finds the taxes should be refunded.

History: **En. Sec. 1, Ch. 589, L. 1979; amd. Sec. 1, Ch. 398, L. 1983; amd. Sec. 53, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 85, L. 1999; amd. Sec. 31, Ch. 142, L. 2021.**

15-8-116 through 15-8-119 reserved.

15-8-120. Restricted access to income and expense information submitted to department for property tax purposes. All income and expense information furnished by a property owner or a property owner's agent to the department for property tax purposes, including but not limited to the department performing an income approach to valuation or determining a property owner's income as disclosed in an application for a property tax assistance program provided for in Title 15, chapter 6, part 3, is confidential and must be treated as provided in 15-30-2618 and 15-31-511.

History: **En. Sec. 1, Ch. 18, L. 2023.**

Part 2
When Property Is Assessed

Part Cross-References

Taxation of condominium units, 15-8-511, 15-8-512.

Owner of life estate under duty to pay taxes, 70-16-103.

15-8-201. General assessment day. (1) The department shall, between January 1 and the first Monday of August in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

(a) motor vehicles;

(b) motor homes, travel trailers, and campers;

(c) watercraft, snowmobiles, and off-highway vehicles;

(d) livestock;

(e) property defined as special mobile equipment in 61-1-101 that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment decal;

(f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

(g) property subject to the provisions of 15-16-203.

History: **En. Sec. 13, p. 78, L. 1891; re-en. Sec. 3700, Pol. C. 1895; re-en. Sec. 2510, Rev. C. 1907; re-en. Sec. 2002, R.C.M. 1921; Cal. Pol. C. Sec. 3628; amd. Sec. 3, Ch. 158, L. 1933; amd. Sec. 1, Ch. 30, L. 1935; re-en. Sec. 2002, R.C.M. 1935; amd. Sec. 9, Ch. 72, L. 1937; amd. Sec. 2, Ch. 256, L. 1955; amd. Sec. 2, Ch. 245, L. 1963; amd. Sec. 1, Ch. 86, L. 1965; amd. Sec. 2, Ch. 232, L. 1967; amd. Sec. 3, Ch. 290, L. 1967; amd. Sec. 3, Ch. 296, L. 1967; amd. Sec. 1, Ch. 40, L. 1969; amd. Sec. 1, Ch. 180, L. 1969; amd. Sec. 6, Ch. 435, L. 1971; amd. Sec. 4, Ch. 405, L. 1973; amd. Sec. 5, Ch. 414, L. 1973; amd. Sec. 10, Ch. 74, L. 1975; amd. Sec. 2, Ch. 327, L. 1975; amd. Sec. 8, Ch. 388, L. 1975; amd. Sec. 2, Ch. 507, L. 1975; amd. Sec. 3, Ch. 126, L. 1977; amd. Sec. 2, Ch. 211, L. 1977; amd. Sec. 5, Ch. 260, L. 1977; amd. Sec. 51, Ch. 566, L. 1977; R.C.M. 1947, 84-406(1) thru (3); amd. Sec. 1, Ch. 663, L. 1979; amd. Sec. 22, Ch. 712, L. 1979; amd. Sec. 12, Ch. 614, L. 1981; amd. Sec. 5, Ch. 20, L. 1985; amd. Sec. 7, Ch. 516, L. 1985; amd. Sec. 38, Ch. 370, L. 1987; amd. Sec. 6, Ch. 611, L. 1987; amd. Sec. 3, Ch. 649, L. 1987; amd. Sec. 2, Ch. 570, L. 1991; amd. Sec. 54, Ch. 27, Sp. L. November 1993; amd. Sec. 8, Ch. 200, L. 1997; amd. Sec. 3, Ch. 414, L. 1997; amd. Sec. 5, Ch. 496, L. 1997; amd. Sec. 3, Ch. 583, L. 1999; amd. Sec. 2, Ch. 34, L. 2003; amd. Sec. 9, Ch. 542, L. 2005; amd. Sec. 14, Ch. 596, L. 2005.**

Cross-References

Land split defined, 15-7-108.
Motorcycle defined, 61-1-101.
Quadricycle defined, 61-1-101.
Assessment of land purchased from state, 77-2-313.

15-8-202. Motor vehicle assessment by department of justice. (1) (a) The department of justice shall determine the registration fee on light vehicles in accordance with 61-3-321 and 61-3-562.

(b) For the purposes of the local option motor vehicle tax under 61-3-537, the department of justice shall assess all light vehicles in accordance with 61-3-503.

(c) The department of justice shall determine the registration fee for all buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors in accordance with 61-3-321 and 61-3-529.

(d) Taxes and registration fees on a motor vehicle under this subsection (1) must be assessed or imposed in each year on the person to whom the vehicle is registered.

(2) (a) The department of justice is authorized to appear in any proceeding before a county tax appeal board, the Montana tax appeal board, or a court that seeks to dispute an assessment made by the department pursuant to the authority granted under this section.

(b) For the purposes of proceedings before county tax appeal boards or the Montana tax appeal board, service of the application required under 15-15-201 must be made on the attorney general. A copy of any application giving rise to a proceeding before a county tax appeal board

or the Montana tax appeal board must also be served on the county treasurer of the county in which the vehicle that is the subject of the proceeding was registered.

History: En. Sec. 13, p. 78, L. 1891; re-en. Sec. 3700, Pol. C. 1895; re-en. Sec. 2510, Rev. C. 1907; re-en. Sec. 2002, R.C.M. 1921; Cal. Pol. C. Sec. 3628; amd. Sec. 3, Ch. 158, L. 1933; amd. Sec. 1, Ch. 30, L. 1935; re-en. Sec. 2002, R.C.M. 1935; amd. Sec. 9, Ch. 72, L. 1937; amd. Sec. 2, Ch. 256, L. 1955; amd. Sec. 2, Ch. 245, L. 1963; amd. Sec. 1, Ch. 86, L. 1965; amd. Sec. 2, Ch. 232, L. 1967; amd. Sec. 3, Ch. 290, L. 1967; amd. Sec. 3, Ch. 296, L. 1967; amd. Sec. 1, Ch. 40, L. 1969; amd. Sec. 1, Ch. 180, L. 1969; amd. Sec. 6, Ch. 435, L. 1971; amd. Sec. 4, Ch. 405, L. 1973; amd. Sec. 5, Ch. 414, L. 1973; amd. Sec. 10, Ch. 74, L. 1975; amd. Sec. 2, Ch. 327, L. 1975; amd. Sec. 8, Ch. 388, L. 1975; amd. Sec. 2, Ch. 507, L. 1975; amd. Sec. 3, Ch. 126, L. 1977; amd. Sec. 2, Ch. 211, L. 1977; amd. Sec. 5, Ch. 260, L. 1977; amd. Sec. 51, Ch. 566, L. 1977; R.C.M. 1947, 84-406(4); amd. Sec. 23, Ch. 712, L. 1979; amd. Sec. 1, Ch. 262, L. 1981; amd. Sec. 13, Ch. 614, L. 1981; amd. Sec. 2, Ch. 433, L. 1985; amd. Sec. 8, Ch. 516, L. 1985; amd. Sec. 7, Ch. 611, L. 1987; amd. Sec. 55, Ch. 27, Sp. L. November 1993; amd. Sec. 6, Ch. 496, L. 1997; amd. Sec. 3, Ch. 85, L. 1999; amd. Sec. 7, Ch. 515, L. 1999; amd. Sec. 10, Ch. 542, L. 2005; amd. Sec. 15, Ch. 596, L. 2005; amd. Sec. 32, Ch. 142, L. 2021.

Cross-References

Motorcycle defined, 61-1-101.
Quadricycle defined, 61-1-101.
Assessment of motor vehicles, 61-3-503.
Registration of foreign motor vehicles, Title 61, ch. 3, part 7.
Transportation of vehicles through state, Title 61, ch. 4, part 3.

15-8-203. Repealed. Sec. 30, Ch. 712, L. 1979.

History: En. Sec. 13, p. 78, L. 1891; re-en. Sec. 3700, Pol. C. 1895; re-en. Sec. 2510, Rev. C. 1907; re-en. Sec. 2002, R.C.M. 1921; Cal. Pol. C. Sec. 3628; amd. Sec. 3, Ch. 158, L. 1933; amd. Sec. 1, Ch. 30, L. 1935; re-en. Sec. 2002, R.C.M. 1935; amd. Sec. 9, Ch. 72, L. 1937; amd. Sec. 2, Ch. 256, L. 1955; amd. Sec. 2, Ch. 245, L. 1963; amd. Sec. 1, Ch. 86, L. 1965; amd. Sec. 2, Ch. 232, L. 1967; amd. Sec. 3, Ch. 290, L. 1967; amd. Sec. 3, Ch. 296, L. 1967; amd. Sec. 1, Ch. 40, L. 1969; amd. Sec. 1, Ch. 180, L. 1969; amd. Sec. 6, Ch. 435, L. 1971; amd. Sec. 4, Ch. 405, L. 1973; amd. Sec. 5, Ch. 414, L. 1973; amd. Sec. 10, Ch. 74, L. 1975; amd. Sec. 2, Ch. 327, L. 1975; amd. Sec. 8, Ch. 388, L. 1975; amd. Sec. 2, Ch. 507, L. 1975; amd. Sec. 3, Ch. 126, L. 1977; amd. Sec. 2, Ch. 211, L. 1977; amd. Sec. 5, Ch. 260, L. 1977; amd. Sec. 51, Ch. 566, L. 1977; R.C.M. 1947, 84-406(5).

15-8-204. Supplemental assessment. When any personal property liable to taxation is brought into a county at any time after the first Monday of August and the property has not been assessed for that year, it must be listed and assessed the same as if it had been in the county at the time of the regular assessment, and the tax must be collected, as provided in this code, at any time.

History: En. Sec. 4022, Pol. C. 1895; re-en. Sec. 2740, Rev. C. 1907; re-en. Sec. 2035, R.C.M. 1921; re-en. Sec. 2035, R.C.M. 1935; amd. Sec. 20, Ch. 405, L. 1973; R.C.M. 1947, 84-441; amd. Sec. 3, Ch. 34, L. 2003.

15-8-205. Initial assessment of class four trailer, manufactured home, and mobile home property — when. The department shall assess trailer, manufactured home, and mobile home property as class four property under 15-6-134 immediately upon arrival in the county if the taxes have not been previously paid for that year in another county in Montana.

History: En. Sec. 5, Ch. 632, L. 1983; amd. Sec. 10, Ch. 773, L. 1991; amd. Sec. 56, Ch. 27, Sp. L. November 1993; amd. Sec. 9, Ch. 200, L. 1997; amd. Sec. 24, Ch. 2, L. 2009.

Part 3
How Property Is Assessed

15-8-301. Statement — what to contain. (1) The department may require from a person a statement under oath setting forth specifically all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

(e) an exact description of all lands, improvements, and personal property;

(f) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. A taxpayer owning exempt business equipment is subject to limited reporting requirements; however, all new businesses shall report their class eight property, as defined in 15-6-138, so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

(4) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation.

History: En. Sec. 14, p. 78, L. 1891; amd. Sec. 3701, Pol. C. 1895; re-en. Sec. 2511, Rev. C. 1907; re-en. Sec. 2003, R.C.M. 1921; Cal. Pol. C. Sec. 3629; re-en. Sec. 2003, R.C.M. 1935; amd. Sec. 5, Ch. 405, L. 1973; amd. Sec. 9, Ch. 388, L. 1975; R.C.M. 1947, 84-409; amd. Sec. 4, Ch. 649, L. 1987; amd. Sec. 57, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 347, L. 1995; amd. Sec. 15, Ch. 285, L. 1999; amd. Sec. 25, Ch. 2, L. 2009.

Cross-References

Notice required if Department revises statement valuation, 15-8-601.

15-8-302. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 15, p. 80, L. 1891; re-en. Sec. 3702, Pol. C. 1895; re-en. Sec. 2512, Rev. C. 1907; re-en. Sec. 2004, R.C.M. 1921; Cal. Pol. C. Sec. 3630; re-en. Sec. 2004, R.C.M. 1935; amd. Sec. 6, Ch. 405, L. 1973; amd. Sec. 10, Ch. 388, L. 1975; R.C.M. 1947, 84-410.

15-8-303. Statement to be completed and returned to department. The department may deliver the statement specified in 15-8-301 to the person owning taxable property and require the person, within an appointed time, to return the statement, properly filled out. The department shall notify the person making the statement of any corrections made by the department.

History: En. Sec. 16, p. 80, L. 1891; re-en. Sec. 3703, Pol. C. 1895; re-en. Sec. 2513, Rev. C. 1907; re-en. Sec. 2005, R.C.M. 1921; Cal. Pol. C. Sec. 3631; re-en. Sec. 2005, R.C.M. 1935; amd. Sec. 7, Ch. 405, L. 1973; R.C.M. 1947, 84-411; amd. Sec. 58, Ch. 27, Sp. L. November 1993.

15-8-304. Enforcement powers of department. (1) The department may:

(a) require any person in the state to make and subscribe an affidavit, giving the person's name, place of residence, and post-office address;

(b) subpoena and examine any person in relation to any statement furnished to the department or any statement that discloses property that is assessable in the state.

(2) The department may exercise this power in any county where the person whom it desires to examine may be found but may not require the person to appear before it in any county other than that in which the subpoena is served.

History: En. Sec. 17, p. 81, L. 1891; re-en. Sec. 3704, Pol. C. 1895; re-en. Sec. 2514, Rev. C. 1907; re-en. Sec. 2006, R.C.M. 1921; Cal. Pol. C. Sec. 3632; re-en. Sec. 2006, R.C.M. 1935; amd. Sec. 8, Ch. 405, L. 1973; R.C.M. 1947, 84-412(part); amd. Sec. 59, Ch. 27, Sp. L. November 1993.

15-8-305. Repealed. Sec. 4, Ch. 357, L. 1985.

History: En. Sec. 18, p. 82, L. 1891; amd. Sec. 3705, Pol. C. 1895; re-en. Sec. 2515, Rev. C. 1907; re-en. Sec. 2007, R.C.M. 1921; Cal. Pol. C. Sec. 3633; re-en. Sec. 2007, R.C.M. 1935; amd. Sec. 9, Ch. 405, L. 1973; R.C.M. 1947, 84-413.

15-8-306. Property concealed or misrepresented. Upon discovery, any property willfully concealed, removed, transferred, or misrepresented by the owner or agent thereof to evade taxation must be assessed at not exceeding 10 times its value, and the assessment so made must not be reduced by the county tax appeal board.

History: En. Sec. 33, p. 84, L. 1891; amd. Sec. 3722, Pol. C. 1895; re-en. Sec. 2541, Rev. C. 1907; re-en. Sec. 2033, R.C.M. 1921; Cal. Pol. C. Sec. 3648; re-en. Sec. 2033, R.C.M. 1935; amd. Sec. 18, Ch. 405, L. 1973; R.C.M. 1947, 84-439.

Cross-References

Applicable to horses taken in roundup, 81-4-511.

15-8-307. Land assessment. (1) Except as provided in subsection (2), land must be assessed in parcels or subdivisions not exceeding 640 acres, and tracts of land containing more than 640 acres that have been sectionized by the United States government must be assessed by sections or fractions of sections.

(2) If the department receives the written consent of all persons with an ownership interest, the department may assess multiple parcels or tracts of land with common ownership collectively as a single tract of land.

(3) The department shall itemize in the property tax record the description of each 640 acres of land or less, the number of acres, the description, the value of the land, the value of improvements, and the total value. The property tax record must itemize the description of each town or city lot and the value of the lot and any improvements on the lot, except that a lot and improvements must be separately assessed when required under 15-8-111. If all of the unimproved lots of the same value are located in one block or are owned by the same party, the lots may be described and assessed in a single unit in the manner prescribed for each lot. Each parcel and lot must be segregated in the property tax record to correlate the description of the parcel or lot to the total value of the parcel or lot and any improvements on the parcel or lot.

History: En. Sec. 12, p. 77, L. 1891; re-en. Sec. 3697, Pol. C. 1895; re-en. Sec. 2509, Rev. C. 1907; re-en. Sec. 2023, R.C.M. 1921; Cal. Pol. C. Sec. 3628; re-en. Sec. 2023, R.C.M. 1935; amd. Sec. 13, Ch. 405, L. 1973; amd. Sec. 2, Ch. 436, L. 1975; R.C.M. 1947, 84-429(part); amd. Sec. 60, Ch. 27, Sp. L. November 1993.

15-8-308. Assessment not illegal for informality or delay. No assessment or act relating to assessment or collection of taxes is illegal on account of informality or because the same was not completed within the time required by law.

History: En. Sec. 4014, Pol. C. 1895; re-en. Sec. 2732, Rev. C. 1907; re-en. Sec. 2036, R.C.M. 1921; re-en. Sec. 2036, R.C.M. 1935; Cal. Pol. C. Sec. 3885; R.C.M. 1947, 84-442.

15-8-309. Violation and penalty. A person who fails for any reason to file or return the statement required by 15-8-301 must be assessed a $25 penalty. The department shall deposit the penalty to the credit of the state general fund.

History: En. Sec. 17, p. 81, L. 1891; re-en. Sec. 3704, Pol. C. 1895; re-en. Sec. 2514, Rev. C. 1907; re-en. Sec. 2006, R.C.M. 1921; Cal. Pol. C. Sec. 3632; re-en. Sec. 2006, R.C.M. 1935; amd. Sec. 8, Ch. 405, L. 1973; R.C.M. 1947, 84-412(part); amd. Sec. 10, Ch. 557, L. 1987; amd. Sec. 4, Ch. 427, L. 1999.

Cross-References

Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Part 4
Where Property Is Assessed

15-8-401. Consigned property. All personal property consigned for sale to any person within this state from any place out of the state must be assessed as other property.

History: En. Sec. 21, p. 82, L. 1891; re-en. Sec. 3709, Pol. C. 1895; re-en. Sec. 2519, Rev. C. 1907; re-en. Sec. 2011, R.C.M. 1921; Cal. Pol. C. Sec. 3638; re-en. Sec. 2011, R.C.M. 1935; R.C.M. 1947, 84-417.

15-8-402. Property of person. The property of every person must be assessed in the county where the property is located and must be assessed in the name of that person.

History: En. Sec. 23, p. 82, L. 1891; re-en. Sec. 3711, Pol. C. 1895; re-en. Sec. 2521, Rev. C. 1907; re-en. Sec. 2013, R.C.M. 1921; Cal. Pol. C. Sec. 3641; re-en. 2013, R.C.M. 1935; R.C.M. 1947, 84-419; amd. Sec. 61, Ch. 27, Sp. L. November 1993.

15-8-403. Repealed. Sec. 11, Ch. 583, L. 1999.

History: En. Sec. 3713, Pol. C. 1895; re-en. Sec. 2523, Rev. C. 1907; re-en. Sec. 2015, R.C.M. 1921; re-en. Sec. 2015, R.C.M. 1935; R.C.M. 1947, 84-421.

15-8-404. Property of particular types of firms. (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where the business is carried on.

(2) The personal property of express, transportation, and stage companies must be listed and assessed in the county, town, or district where the property is usually kept.

(3) The personal property of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property.

History: En. Secs. 25, 26, 27, 28, p. 83, L. 1891; re-en. Secs. 3714, 3715, 3716, 3717, Pol. C. 1895; re-en. Secs. 2524, 2525, 2526, 2527, Rev. C. 1907; re-en. Secs. 2016, 2017, 2018, 2019, R.C.M. 1921; re-en. Secs. 2016, 2017, 2018, 2019, R.C.M. 1935; R.C.M. 1947, 84-422, 84-423, 84-424, 84-425; amd. Sec. 5, Ch. 649, L. 1987; amd. Sec. 4, Ch. 583, L. 1999.

15-8-405. Street railroads, bridges, and ferries. Street railroads, bridges, and ferries owned by persons or corporations must be listed and assessed in the county, town, or district where the property or any portion of the property is located. The track of the railroad and the bridge are personal property.

History: En. Sec. 29, p. 83, L. 1891; re-en. Sec. 3718, Pol. C. 1895; re-en. Sec. 2528, Rev. C. 1907; re-en. Sec. 2020, R.C.M. 1921; re-en. Sec. 2020, R.C.M. 1935; R.C.M. 1947, 84-426; amd. Sec. 5, Ch. 583, L. 1999.

15-8-406. Assessment of public utilities in one county. Railroads operated or situated in one county; telegraph, telephone, and electric light lines and similar properties situated in one county; and canals, ditches, and flumes situated in one county must be listed and assessed in the county in which the property is located. The department shall require the owner of the property or the owner's agent or any officer of a corporation owning the property to make a verified statement containing a list of the number of miles on which the property is operated or situated in the county and the value of the property.

History: En. Sec. 30, p. 83, L. 1891; re-en. Sec. 3719, Pol. C. 1895; re-en. Sec. 2529, Rev. C. 1907; amd. Sec. 1, Ch. 24, L. 1921; re-en. Sec. 2021, R.C.M. 1921; re-en. Sec. 2021, R.C.M. 1935; amd. Sec. 12, Ch. 405, L. 1973; R.C.M. 1947, 84-427; amd. Sec. 6, Ch. 583, L. 1999.

Cross-References

Central assessment of public utilities, Title 15, ch. 23, part 3.

15-8-407. Railroads. The roadway, roadbed, rails, rolling stock, and all other operating property of a railroad operated in more than one county or more than one state must be assessed by the department of revenue as provided in Title 15, chapter 23, part 2.

History: En. Sec. 11, p. 76, L. 1891; re-en. Sec. 3696, Pol. C. 1895; re-en. Sec. 2508, Rev. C. 1907; re-en. Sec. 2022, R.C.M. 1921; Cal. Pol. C. Sec. 3628; re-en. Sec. 2022, R.C.M. 1935; amd. Sec. 4, Ch. 516, L. 1973; R.C.M. 1947, 84-428; amd. Sec. 3, Ch. 686, L. 1979; amd. Sec. 7, Ch. 583, L. 1999.

Cross-References

Central assessment of railroads, Title 15, ch. 23, part 2.

15-8-408. Personal property. Personal property, other than livestock, subject to taxation or a fee in lieu of tax in the state shall be taxable in the taxing jurisdiction where it is located on January 1, whether or not the same is owned, claimed, or possessed by the person, as defined in 15-1-102, owning, claiming, or possessing it on January 1.

History: En. Sec. 158, p. 121, L. 1891; re-en. Sec. 3943, Pol. C. 1895; amd. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2686, Rev. C. 1907; re-en. Sec. 2247, R.C.M. 1921; Cal. Pol. C. Sec. 3823; amd. Sec. 1, Ch. 122, L. 1933; re-en. Sec. 2247, R.C.M. 1935; amd. Sec. 15, Ch. 388, L. 1975; R.C.M. 1947, 84-4209(part); amd. Sec. 6, Ch. 598, L. 1989.

Cross-References

Definition of personal property, 15-1-101.

Migratory personal property, Title 15, ch. 24, part 3.

15-8-409. Property not otherwise specified. All other taxable property must be assessed in the county, city, or district in which it is situated.

History: En. Sec. 12, p. 77, L. 1891; re-en. Sec. 3697, Pol. C. 1895; re-en. Sec. 2509, Rev. C. 1907; re-en. Sec. 2023, R.C.M. 1921; Cal. Pol. C. Sec. 3628; re-en. Sec. 2023, R.C.M. 1935; amd. Sec. 13, Ch. 405, L. 1973; amd. Sec. 2, Ch. 436, L. 1975; R.C.M. 1947, 84-429(part).

Part 5
To Whom Property Is Assessed

Part Cross-References

Owner of life estate under duty to pay taxes, 70-16-103.

15-8-501. Assessment of unknown or absent owners. (1) If the owner or claimant of any property not listed by another person is absent or unknown, the department shall make an estimate of the value of the property.

(2) If the name of the absent owner is known to the department, the property must be assessed in the owner's name and, if unknown, the property must be assessed to unknown owners.

History: En. Secs. 19, 20, p. 82, L. 1891; re-en. Secs. 3706, 3707, Pol. C. 1895; re-en. Secs. 2516, 2517, Rev. C. 1907; re-en. Secs. 2008, 2009, R.C.M. 1921; Cal. Pol. C. Secs. 3635, 3636; re-en. Secs. 2008, 2009, R.C.M. 1935; amd. Secs. 10, 11, Ch. 405, L. 1973; R.C.M. 1947, 84-414, 84-415; amd. Sec. 152, Ch. 56, L. 2009.

15-8-502. Representative status to be designated. When a person is assessed as agent, trustee, bailee, guardian, executor, or administrator, the person's representative designation must be added to the person's name and the assessment entered on a separate line from the person's individual assessment.

History: En. Sec. 22, p. 82, L. 1891; re-en. Sec. 3710, Pol. C. 1895; re-en. Sec. 2520, Rev. C. 1907; re-en. Sec. 2012, R.C.M. 1921; Cal. Pol. C. Sec. 3639; re-en. Sec. 2012, R.C.M. 1935; R.C.M. 1947, 84-418; amd. Sec. 153, Ch. 56, L. 2009.

15-8-503. Undistributed property of deceased persons. The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, executors, or administrators, and a payment of taxes made by either binds all the parties in interest for their equal proportions.

History: En. Sec. 24, p. 82, L. 1891; re-en. Sec. 3712, Pol. C. 1895; re-en. Sec. 2522, Rev. C. 1907; re-en. Sec. 2014, R.C.M. 1921; Cal. Pol. C. Sec. 3642; re-en. Sec. 2014, R.C.M. 1935; R.C.M. 1947, 84-420.

15-8-504. Property and money in litigation. Money and property in litigation in possession of a county treasurer or of a court or a clerk thereof or receiver must be assessed to such treasurer, clerk, or receiver and the taxes paid thereon under the direction of the court.

History: En. Sec. 32, p. 84, L. 1891; re-en. Sec. 3721, Pol. C. 1895; re-en. Sec. 2540, Rev. C. 1907; re-en. Sec. 2032, R.C.M. 1921; Cal. Pol. C. Sec. 3647; re-en. Sec. 2032, R.C.M. 1935; R.C.M. 1947, 84-438.

15-8-505 through 15-8-510 reserved.

15-8-511. Undivided interest in common elements of condominium project — definition. (1) Each unit of a condominium project is considered a parcel of real property subject to separate assessment and taxation. Each unit owner must be assessed for the unit owner's percentage of undivided interest in elements of the condominium project, except parks, owned in common by the unit owners. The percentage of undivided interest stated in a unit declaration is the figure to be used in assessing common elements under this section.

(2) As used in this chapter, "common elements" has the meaning provided in 70-23-102.

History: En. Sec. 1, Ch. 452, L. 1985; amd. Sec. 2, Ch. 379, L. 2005.

Cross-References

Unit Ownership Act, Title 70, ch. 23.

15-8-512. Common elements serving residential or commercial development. (1) Each lot in a residential or commercial development, regardless of whether improved or unimproved, is considered a parcel of real property subject to separate assessment and taxation. The value of common elements must be allocated to each lot owner pursuant to 15-8-111.

(2) The assessment provisions of subsection (1) are not negated by the existence or formation of a contract between the developer and lot purchasers or an agreement among lot purchasers that would attempt to obligate the developer or an association of lot owners to pay taxes on the common elements.

History: En. Sec. 2, Ch. 452, L. 1985; amd. Sec. 3, Ch. 379, L. 2005.

Cross-References

Unit Ownership Act, Title 70, ch. 23.

Part 6
Assessment Revision

15-8-601. Assessment revision — conference for review. (1) (a) Except as provided in subsection (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property provided that the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments must be made

within 10 years after the end of the calendar year in which the original assessment was or should have been made, unless the department determines a person was assessed an amount that was greater than the correct amount of the assessment. The time limit for a revised assessment that results in a refund to any person is determined pursuant to 15-16-603.

(b) Within the time limits set by 15-23-116, whenever the department discovers property subject to assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation, regardless of the ownership of the property at the time of the department's revised assessment.

(c) If an erroneous assessment is due to a calculation error by the department, the department shall revise the assessment of like properties that were also erroneously assessed using the same calculation.

(2) When the department proposes to revise the statement reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section. Revised assessments of centrally assessed property and industrial property that is assessed annually by the department are subject to mediation pursuant to 15-1-212.

(3) (a) Notice of revised assessment pursuant to this section must be made by the department by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. If the property is locally assessed, the notice must include the opportunity for a conference on the matter, at the request of the person interested, within 30 days after notice is given.

(b) An assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes in writing of each assessment revision review conference, and the minutes are public records.

(c) Following an assessment revision review conference or expiration of the opportunity for a conference, the department shall order an assessment that it considers proper. Any party to the conference aggrieved by the action of the department or a taxpayer who does not request a conference may appeal to the county tax appeal board within 30 days of receipt of the revised assessment or the department's assessment made pursuant to the conference.

(4) The department shall enter in the property tax record all changes and corrections made by it.

History: (1) thru (3), (5)En. Sec. 11, Ch. 3, L. 1923; re-en. Sec. 2122.11, R.C.M. 1935; amd. Sec. 56, Ch. 405, L. 1973; amd. Sec. 4, Ch. 155, L. 1977; Sec. 84-711, R.C.M. 1947; (4)Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2582, Rev. C. 1907; re-en. Sec. 2121, R.C.M. 1921; Cal. Pol. C. Sec. 3682; re-en. Sec. 2121, R.C.M. 1935; amd. Sec. 44, Ch. 405, L. 1973; Sec. 84-610, R.C.M. 1947; R.C.M. 1947, 84-610, 84-711; amd. Sec. 1, Ch. 37, L. 1991; amd. Sec. 5, Ch. 811, L. 1991; amd. Sec. 62, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 36, L. 1997; amd. Sec. 4, Ch. 399, L. 2011; amd. Sec. 5, Ch. 419, L. 2013; amd. Sec. 1, Ch. 755, L. 2023.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.
Montana Tax Appeal Board, Title 15, ch. 2.
County Tax Appeal Board, Title 15, ch. 15, part 1.
Failure to file report on centrally assessed property, 15-23-104.
Transmission of statement of revised assessment of centrally assessed property, 15-23-107.

Part 7
Assessment and Map Books

15-8-701. Property tax record — definition — listing property in. (1) Unless the context clearly indicates otherwise, the term "property tax record" means the record that is kept in each county by the department and that contains the information described in subsection (2). The term includes records referred to as an "assessment book" or "assessment roll" and, in a county in which the property tax record is kept on a computer system, the information on the system analogous to the information described in subsection (2).

(2) The department shall prepare a property tax record with appropriate headings, in which must be listed all property within the state and in which must be specified, by an appropriate heading:

(a) the name of the person to whom the property is assessed;

(b) land by description sufficient to identify it, the locality, and the improvements on the land;

(c) all taxable personal property, showing the number, kind, amount, and quality; but a failure to enumerate in detail the personal property does not invalidate the assessment;

(d) the assessed value of real estate;

(e) the assessed value of improvements on land, except that land and improvements must be separately listed when required under 15-8-111;

(f) the assessed value of improvements on real estate assessed to persons other than the owners of the real estate. Taxable improvements owned by a person, located upon land exempt from taxation, must, as to the manner of assessment, be assessed as other real estate. A value may not be assessed against the exempt land, and the land may not be charged with and is not responsible for the assessment made against any taxable improvements located on the land.

(g) the assessed value of all taxable personal property;

(h) the school, road, and other revenue districts in which each piece of property assessed is situated;

(i) the total assessed value of all property;

(j) the taxable value of all property;

(k) the taxes and fees assessed against the property; and

(l) the total of each type of tax, levy, and fee.

History: **(1)En. 84-502.1 by Sec. 27, Ch. 405, L. 1973; Sec, 84-502.1, R.C.M. 1947; (2)En. Sec. 34, p. 84, L. 1891; re-en. Sec. 3724, Pol. C. 1895; re-en. Sec. 2543, Rev. C. 1907; re-en. Sec. 2048, R.C.M. 1921; Cal. Pol. C. Sec. 3650; re-en. Sec. 2048, R.C.M. 1935; amd. Sec. 26, Ch. 405, L. 1973; amd. Sec. 2, Ch. 209, 1975; amd. Sec. 3, Ch. 436, L. 1975; amd. Sec. 5, Ch. 126, L. 1977; Sec. 84-501, R.C.M. 1947; R.C.M. 1947, 84-501, 84-502.1; amd. Sec. 1, Ch. 253, L. 1985; amd. Sec. 63, Ch. 27, Sp. L. November 1993.**

Cross-References

Book to show property situated in cities and towns, 7-6-4409.

Tax-exempt property, Title 15, ch. 6, part 2.

Irrigation district assessments added to book, 85-7-2136.

Drainage district assessments added to book, 85-8-601.

15-8-702. Persons desiring to be listed. Lands described on the property tax record do not need to be described a second time, but any person claiming the land and desiring to be assessed for the land may have the person's name inserted with that of the person to whom the land is assessed.

History: **En. Sec. 3731, Pol. C. 1895; re-en. Sec. 2550, Rev. C. 1907; re-en. Sec. 2055, R.C.M. 1921; Cal. Pol. C. Sec. 3657; re-en. Sec. 2055, R.C.M. 1935; amd. Sec. 1, Ch. 283, L. 1975; R.C.M. 1947, 84-508; amd. Sec. 2, Ch. 366, L. 1993; amd. Sec. 64, Ch. 27, Sp. L. November 1993.**

15-8-703. Repealed. Sec. 1, Ch. 17, L. 1985.

History: **(1)En. Sec. 3851, Pol. C. 1895; re-en. Sec. 2615, Rev. C. 1907; re-en. Sec. 2167, R.C.M. 1921; re-en. Sec. 2167, R.C.M. 1935; Sec. 84-4012, R.C.M. 1947; (2)En. Sec. 4019, Pol. C. 1895; re-en. Sec. 2737, Rev. C. 1907; re-en. Sec. 2168, R.C.M. 1921; re-en. Sec. 2168, R.C.M. 1935; amd. Sec. 81, Ch. 405, L. 1973; Sec. 84-4013, R.C.M. 1947; R.C.M. 1947, 84-4012, 84-4013.**

15-8-704. Map book. The department shall make maps showing public and private land for each county and shall designate the person to whom the land is assessed.

History: **En. Sec. 3727, Pol. C. 1895; re-en. Sec. 2546, Rev. C. 1907; re-en. Sec. 2051, R.C.M. 1921; re-en. Sec. 2051, R.C.M. 1935; amd. Sec. 28, Ch. 405, L. 1973; R.C.M. 1947, 84-504; amd. Sec. 65, Ch. 27, Sp. L. November 1993.**

15-8-705. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 37, p. 86, L. 1891; re-en. Sec. 3728, Pol. C. 1895; re-en. Sec. 2547, Rev. C. 1907; re-en. Sec. 2052, R.C.M. 1921; Cal. Pol. C. Sec. 3654; re-en. Sec. 2052, R.C.M. 1935; amd. Sec. 29, Ch. 405, L. 1973; R.C.M. 1947, 84-505.**

15-8-706. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **(1)En. Sec. 3729, Pol. C. 1895; re-en. Sec. 2548, Rev. C. 1907; re-en. Sec. 2053, R.C.M. 1921; Cal. Pol. C. Sec. 3655; re-en. Sec. 2053, R.C.M. 1935; amd. Sec. 30, Ch. 405, L. 1973; Sec. 84-506, R.C.M. 1947; (2) En. Sec. 3730, Pol. C. 1895; re-en. Sec. 2549, Rev. C. 1907; re-en. Sec. 2054, R.C.M. 1921; Cal. Pol. C. Sec. 3656; re-en. Sec. 2054, R.C.M. 1935; amd. Sec. 31, Ch. 405, L. 1973; Sec. 84-507, R.C.M. 1947; R.C.M. 1947, 84-506, 84-507; amd. Sec. 1, Ch. 225, L. 1983; amd. Sec. 7, Ch. 598, L. 1989.**

15-8-707. Correction of defects in property tax record. (1) At any time after the original assessment is made and prior to a sale for delinquent taxes, omissions, errors, or defects in the property tax record may only be corrected by the department.

(2) If the correction involves an assessment of property that is the subject of pending litigation with a taxing jurisdiction within the county, the county attorney must be notified of the correction.

History: En. Sec. 193, p. 127, L. 1891; re-en. Sec. 4010, Pol. C. 1895; re-en. Sec. 2728, Rev. C. 1907; re-en. Sec. 2058, R.C.M. 1921; Cal. Pol. C. Sec. 3881; re-en. Sec. 2058, R.C.M. 1935; amd. Sec. 34, Ch. 405, L. 1973; R.C.M. 1947, 84-511; amd. Sec. 1, Ch. 477, L. 1979; amd. Sec. 2, Ch. 17, L. 1985; amd. Sec. 66, Ch. 27, Sp. L. November 1993.

15-8-708. Omissions in delinquent lists — correction by publication. (1) When the omission, error, or defect has been carried into a delinquent list or any publication, the list or publication may be republished as amended or notice of the correction may be given in a supplementary publication.

(2) The publication must be made in the same manner as the original publication and for not less than 1 week.

History: (1)En. Sec. 194, p. 127, L. 1891; re-en. Sec. 4011, Pol. C. 1895; re-en. Sec. 2729, Rev. C. 1907; re-en. Sec. 2059, R.C.M. 1921; Cal. Pol. C. Sec. 3882; re-en. Sec. 2059, R.C.M. 1935; Sec. 84-512, R.C.M. 1947; (2)En. Sec. 195, p. 127, L. 1891; re-en. Sec. 4012, Pol. C. 1895; re-en. Sec. 2730, Rev. C. 1907; re-en. Sec. 2060, R.C.M. 1921; Cal. Pol. C. Sec. 3883; re-en. Sec. 2060, R.C.M. 1935; Sec. 84-513, R.C.M. 1947; R.C.M. 1947, 84-512, 84-513.

15-8-709. Statement of changes to be sent to county clerk and recorder. The department shall notify each county clerk and recorder of the changes made by the department in the property tax record of the county or any assessment contained in the property tax record, which changes are prima facie evidence of the regularity of all proceedings of the department resulting in the action that is the subject matter of the statement.

History: En. Sec. 12, Ch. 3, L. 1923; re-en. Sec. 2122.12, R.C.M. 1935; amd. Sec. 57, Ch. 405, L. 1973; R.C.M. 1947, 84-712; amd. Sec. 67, Ch. 27, Sp. L. November 1993.

15-8-710. Property tax record prima facie evidence. The property tax record or delinquent list or a copy of either certified by the county treasurer showing unpaid taxes against any person or property is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of the law in relation to the assessment and levy of the taxes have been complied with.

History: En. Sec. 133, p. 115, L. 1891; re-en. Sec. 3900, Pol. C. 1895; re-en. Sec. 2656, Rev. C. 1907; re-en. Sec. 2216, R.C.M. 1921; Cal. Pol. C. Sec. 3789; re-en. Sec. 2216, R.C.M. 1935; R.C.M. 1947, 84-4171; amd. Sec. 3, Ch. 17, L. 1985; amd. Sec. 68, Ch. 27, Sp. L. November 1993.

15-8-711. List of owners of multiple, undivided interests in parcel of land to county treasurer. (1) The department shall furnish to the county treasurer the names and, if available, the addresses of the owners of each multiple, undivided interest in a parcel of land located within the county. The department shall inform the county treasurer that the list of names may not include every owner of the parcel of land.

(2) If a parcel of land with undivided interests is located within the boundaries of a federally recognized Indian reservation, a copy of the notice of classification and appraisal shall be provided to the tribe or tribes governing the reservation. The department and the tribe may agree on a different procedure which provides the equivalent information to the tribal government.

History: En. Sec. 2, Ch. 444, L. 2001.

CHAPTER 9
EQUALIZATION

Part 1 — General Provisions

15-9-101. Department to equalize valuations — hearing.
15-9-102. Repealed.
15-9-103. Department to use records in equalizing.

Chapter Cross-References

Property tax administration, Art. VIII, sec. 3, Mont. Const.
Equal valuation, Art. VIII, sec. 4, Mont. Const.

Part 1
General Provisions

Part Cross-References

Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

15-9-101. Department to equalize valuations — hearing. (1) The department shall adjust and equalize the valuation of taxable property among the several counties, between the different classes of taxable property in any county and in the several counties, and between individual taxpayers and shall do all things necessary to secure a fair, just, and equitable valuation of all taxable property among counties, between the different classes of property, and between individual taxpayers.

(2) The department may hold a public hearing to determine the value of any class of property in any county and may raise or lower the value of any class of property on the basis of testimony at the hearing.

(3) At the hearing, the department may subpoena witnesses and hear and take evidence as in its discretion it considers proper.

History: **(1)En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; Sec. 84-708.1, R.C.M. 1947; (2)En. Sec. 4, Ch. 187, L. 1933; re-en. Sec. 2116.1, R.C.M. 1935; amd. Sec. 40, Ch. 405, L. 1973; Sec. 84-605, R.C.M. 1947; (3)Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2576, Rev. C. 1907; re-en. Sec. 2117, R.C.M. 1921; Cal. Pol. C. Sec. 3676; re-en. Sec. 2117, R.C.M. 1935; amd. Sec. 6, Ch. 516, L. 1973; Sec. 84-606, R.C.M. 1947; R.C.M. 1947, 84-605, 84-606, 84-708.1(3); amd. Sec. 69, Ch. 27, Sp. L. November 1993.**

Cross-References

Applicable to assessment of property in cities and towns, 7-6-4411.

15-9-102. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 3785, Pol. C. 1895; re-en. Sec. 2577, Rev. C. 1907; amd. Sec. 1, Ch. 53, L. 1921; re-en. Sec. 2118, R.C.M. 1921; Cal. Pol. C. Sec. 3677; re-en. Sec. 2118, R.C.M. 1935; amd. Sec. 1, Ch. 102, L. 1951; amd. Sec. 41, Ch. 405, L. 1973; R.C.M. 1947, 84-607.**

15-9-103. Department to use records in equalizing. The department shall use the abstract and all other information it may gain from the records of the county clerk and recorder or elsewhere in equalizing the assessment of the property of each county and shall enter in the property tax record any property that has not been assessed.

History: **Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2580, Rev. C. 1907; re-en. Sec. 2119, R.C.M. 1921; Cal. Pol. C. Sec. 3679; re-en. Sec. 2119, R.C.M. 1935; amd. Sec. 42, Ch. 405, L. 1973; R.C.M. 1947, 84-608; amd. Sec. 70, Ch. 27, Sp. L. November 1993.**

CHAPTER 10
PROPERTY TAX LEVIES

Part 1 — Statewide Levies

15-10-101. Repealed.
15-10-102. Repealed.
15-10-103. Repealed.
15-10-104. Repealed.
15-10-105. Terminated.
15-10-106. Terminated.
15-10-107. Terminated.
15-10-108. Terminated.
15-10-109. Tax levy for university system.

Part 2 — Statement of Levies

15-10-201. Tax levies to be made in mills and tenths and hundredths of mills.
15-10-202. Certification of taxable values.
15-10-203. Repealed.
15-10-204. Repealed.
15-10-205. Repealed.
15-10-206. Notification of decisions of tax appeal boards.
15-10-207. Repealed.
15-10-208. Repealed.

Part 3 — Entry of Taxes

15-10-301. Repealed.
15-10-302. Repealed.
15-10-303. Repealed.
15-10-304. Repealed.
15-10-305. Clerk and recorder to report mill levy — department to compute and enter taxes.
15-10-306. Repealed.
15-10-307. Repealed.
15-10-308. Repealed.
15-10-309 through 15-10-320 reserved.
15-10-321. Limitation on levy and computation of tax — new taxing jurisdictions.

Part 4 — Limitation on Property Taxes

15-10-401. Declaration of policy.
15-10-402. Property tax limited to 1996 levels.
15-10-403 through 15-10-405 reserved.
15-10-406. Limitation of applicability.
15-10-407 through 15-10-410 reserved.
15-10-411. Repealed.
15-10-412. Repealed.
15-10-413 through 15-10-419 reserved.
15-10-420. Procedure for calculating levy.
15-10-421 through 15-10-424 reserved.
15-10-425. Mill levy election.

Chapter Cross-References

Tax purposes, Art. VIII, sec. 1, Mont. Const.
Property tax administration, Art. VIII, sec. 3, Mont. Const.
Equal valuation, Art. VIII, sec. 4, Mont. Const.
Property tax exemptions, Art. VIII, sec. 5, Mont. Const.

Part 1
Statewide Levies

15-10-101. Repealed. Sec. 7, Ch. 123, L. 1997.

History: En. Sec. 80, p. 104, L. 1891; amd. Sec. 3820, Pol. C. 1895; re-en. Sec. 2593, Rev. C. 1907; re-en. Sec. 2147, R.C.M. 1921; re-en. Sec. 2147, R.C.M. 1935; R.C.M. 1947, 84-3801.

15-10-102. Repealed. Sec. 7, Ch. 123, L. 1997.

History: En. Sec. 3824, Pol. C. 1895; re-en. Sec. 2597, Rev. C. 1907; re-en. Sec. 2149, R.C.M. 1921; Cal. Pol. C. Sec. 3713; re-en. Sec. 2149, R.C.M. 1935; amd. Sec. 147, Ch. 516, L. 1973; amd. Sec. 2, Ch. 345, L. 1977; R.C.M. 1947, 84-3803.

15-10-103. Repealed. Sec. 56, Ch. 767, L. 1991.

History: En. Sec. 84, p. 105, L. 1891; re-en. Sec. 3830, Pol. C. 1895; re-en. Sec. 2603, Rev. C. 1907; re-en. Sec. 2155, R.C.M. 1921; Cal. Pol. C. Sec. 3719; re-en. Sec. 2155, R.C.M. 1935; R.C.M. 1947, 84-3810.

15-10-104. Repealed. Sec. 7, Ch. 123, L. 1997.

History: En. Sec. 3826, Pol. C. 1895; re-en. Sec. 2599, Rev. C. 1907; re-en. Sec. 2151, R.C.M. 1921; Cal. Pol. C. Sec. 3715; re-en. Sec. 2151, R.C.M. 1935; amd. Sec. 148, Ch. 516, L. 1973; R.C.M. 1947, 84-3806.

15-10-105. Terminated. Sec. 2, Ch. 582, L. 1979.

History: En. Sec. 1, Ch. 582, L. 1979; amd. Sec. 1, Ch. 277, L. 1983.

15-10-106. Terminated. Sec. 3, Ch. 588, L. 1989.

History: En. Sec. 1, Ch. 588, L. 1989.

15-10-107. Terminated. Sec. 6, Ch. 408, L. 1999.

History: En. Sec. 1, Ch. 408, L. 1999; amd. Sec. 166, Ch. 584, L. 1999.

15-10-108. Terminated. Sec. 4, Ch. 82, L. 2007.

History: En. Sec. 1, Ch. 82, L. 2007.

15-10-109. *(Temporary)* **Tax levy for university system.** There is levied upon the taxable value of all real estate and personal property subject to taxation in the state of Montana 6 mills for the continued support, maintenance, and improvement of the Montana university system. The funds raised from the levy must be deposited in the state special revenue fund. *(Terminates December 31, 2028—sec. 4, Ch. 73, L. 2017.)*

History: En. Sec. 1, Ch. 73, L. 2017.

Part 2
Statement of Levies

Part Cross-References
Resort tax, Title 7, ch. 6, part 15.

15-10-201. Tax levies to be made in mills and tenths and hundredths of mills. Every board of county commissioners, city or town council or commission, and every other board or commission authorized by law to make or fix tax levies for any purpose shall make and fix every such levy in mills and tenths and hundredths of mills.

History: En. Sec. 1, Ch. 123, L. 1935; re-en. Sec. 2148.1, R.C.M. 1935; R.C.M. 1947, 84-3802.

15-10-202. Certification of taxable values. (1) Subject to subsection (2), by the first Monday in August, the department shall certify to each taxing authority the total taxable value within the jurisdiction of the taxing authority. The department shall also send to each taxing authority a written statement of its best estimate of the total taxable value of newly taxable property, as described in 15-10-420(3). Upon the request of a taxing authority, the department shall provide an estimate of the total taxable value within the jurisdiction of the taxing authority by the second Monday in July.

(2) For tax years beginning after December 31, 2000, if the ownership of centrally assessed property has been transferred in whole or in part to a different owner and the transferred property has a market value of $1 million or more as determined by the department, the department shall determine separately the taxable value of newly taxable property and the taxable value associated with reappraisal of centrally assessed property that is transferred to a different owner. The department shall certify to each taxing authority, at the time specified in subsection (1), the taxable value of newly taxable property and the total taxable value of centrally assessed property, exclusive of newly taxable property, that has been transferred to a different owner.

History: En. 84-7202 by Sec. 2, Ch. 286, L. 1974; R.C.M. 1947, 84-7202; amd. Sec. 4, Ch. 726, L. 1985; amd. Sec. 5, Ch. 26, Sp. L. June 1986; amd. Sec. 2, Ch. 9, L. 1989; amd. Sec. 71, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 26, L. 2001; amd. Sec. 2, Ch. 419, L. 2001; amd. Sec. 4, Ch. 34, L. 2003.

15-10-203. Repealed. Sec. 23, Ch. 262, L. 2015.

History: En. 84-7203 by Sec. 3, Ch. 286, L. 1974; R.C.M. 1947, 84-7203; amd. Sec. 6, Ch. 581, L. 1979; amd. Sec. 39, Ch. 370, L. 1987; amd. Sec. 1, Ch. 817, L. 1991; amd. Sec. 72, Ch. 27, Sp. L. November 1993; amd. Sec. 67, Ch. 430, L. 1995; amd. Sec. 68, Ch. 354, L. 2001.

15-10-204. Repealed. Sec. 4, Ch. 26, L. 2001; Sec. 6, Ch. 419, L. 2001.

History: En. 84-7204 by Sec. 4, Ch. 286, L. 1974; amd. Sec. 2, Ch. 354, L. 1977; R.C.M. 1947, 84-7204; amd. Sec. 7, Ch. 581, L. 1979; amd. Sec. 40, Ch. 370, L. 1987; amd. Sec. 90, Ch. 584, L. 1999.

15-10-205. Repealed. Sec. 4, Ch. 26, L. 2001; Sec. 6, Ch. 419, L. 2001.

History: En. 84-7205 by Sec. 5, Ch. 286, L. 1974; R.C.M. 1947, 84-7205; amd. Sec. 73, Ch. 27, Sp. L. November 1993; amd. Sec. 91, Ch. 584, L. 1999.

15-10-206. Notification of decisions of tax appeal boards. The department shall notify each taxing authority of any change in the property tax record that results from actions by the state or county tax appeal boards.

History: En. 84-7206 by Sec. 6, Ch. 286, L. 1974; R.C.M. 1947, 84-7206; amd. Sec. 3, Ch. 9, L. 1989; amd. Sec. 74, Ch. 27, Sp. L. November 1993; amd. Sec. 3, Ch. 26, L. 2001; amd. Sec. 3, Ch. 419, L. 2001.

Cross-References
Montana Tax Appeal Board, Title 15, ch. 2.
County Tax Appeal Board, Title 15, ch. 15, part 1.

15-10-207. Repealed. Sec. 4, Ch. 26, L. 2001; Sec. 6, Ch. 419, L. 2001.

History: En. 84-7207 by Sec. 7, Ch. 286, L. 1974; R.C.M. 1947, 84-7207; amd. Sec. 8, Ch. 581, L. 1979.

15-10-208. Repealed. Sec. 4, Ch. 26, L. 2001; Sec. 6, Ch. 419, L. 2001.

History: En. 84-7208 by Sec. 8, Ch. 286, L. 1974; R.C.M. 1947, 84-7208; amd. Sec. 9, Ch. 581, L. 1979.

Part 3
Entry of Taxes

15-10-301. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 85, p. 105, L. 1891; re-en. Sec. 3840, Pol. C. 1895; re-en. Sec. 2604, Rev. C. 1907; re-en. Sec. 2156, R.C.M. 1921; Cal. Pol. C. Sec. 3727; re-en. Sec. 2156, R.C.M. 1935; amd. Sec. 1, Ch. 167, L. 1943; amd. Sec. 76, Ch. 405, L. 1973; R.C.M. 1947, 84-4001.

15-10-302. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 86, p. 105, L. 1891; re-en. Sec. 3841, Pol. C. 1895; re-en. Sec. 2605, Rev. C. 1907; re-en. Sec. 2157, R.C.M. 1921; Cal. Pol. C. Sec. 3728; re-en. Sec. 2157, R.C.M. 1935; amd. Sec. 77, Ch. 405, L. 1973; amd. Sec. 7, Ch. 126, L. 1977; R.C.M. 1947, 84-4002.

15-10-303. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 87, p. 105, L. 1891; re-en. Sec. 3842, Pol. C. 1895; re-en. Sec. 2606, Rev. C. 1907; re-en. Sec. 2158, R.C.M. 1921; Cal. Pol. C. Sec. 3729; re-en. Sec. 2158, R.C.M. 1935; amd. Sec. 149, Ch. 516, L. 1973; R.C.M. 1947, 84-4003.

15-10-304. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 88, p. 106, L. 1891; re-en. Sec. 3843, Pol. C. 1895; re-en. Sec. 2607, Rev. C. 1907; re-en. Sec. 2159, R.C.M. 1921; Cal. Pol. C. Sec. 3730; re-en. Sec. 2159, R.C.M. 1935; amd. Sec. 1, Ch. 86, L. 1929; amd. Sec. 78, Ch. 405, L. 1973; R.C.M. 1947, 84-4004; amd. Sec. 2, Ch. 357, L. 1985.

15-10-305. Clerk and recorder to report mill levy — department to compute and enter taxes. (1) (a) The county clerk and recorder shall by the second Monday in September or within 30 calendar days after receiving certified taxable values notify the department of the number of mills needed to be levied for each taxing jurisdiction in the county. Except as provided in subsection (1)(b), the department shall compute the taxes by multiplying the number of mills times the taxable value of the property to be taxed and shall add any fees or assessments required to be levied against a person owning property. All taxes, fees, and assessments must be itemized for the property listed in the property tax record.

(b) Except as provided in 15-6-244 regarding property that has been granted a residential subdivision property tax exemption and in 15-6-506 regarding a property tax exemption for a senior care and housing development project, in conveyances that result in a land split, the taxes must be based on the property as assessed on January 1 preceding the conveyance. The department is not required to include the name of the new owner in the computation of the amount of taxes, fees, and assessments to be levied against property that is part of a land conveyance if including the new owner's name would cause the department to violate the deadline provided in subsection (2).

(2) The department shall complete the computation of the amount of taxes, fees, and assessments to be levied against the property and shall notify the county clerk and recorder and the county treasurer by the second Monday in October. Notwithstanding the provisions of 15-10-321, if a county clerk and recorder fails to timely notify the department of the number of mills needed to be levied for each taxing jurisdiction in that county in accordance with subsection (1)(a), the department must have additional time to meet the notification requirement of this subsection (2) equal to the number of days that the notification required in subsection (1)(a) was received late by the department.

History: En. Sec. 89, p. 106, L. 1891; re-en. Sec. 3844, Pol. C. 1895; re-en. Sec. 2608, Rev. C. 1907; re-en. Sec. 2160, R.C.M. 1921; Cal. Pol. C. Sec. 3731; re-en. Sec. 2160, R.C.M. 1935; amd. Sec. 3, Ch. 167, L. 1943; amd. Sec. 79, Ch. 405, L. 1973; R.C.M. 1947, 84-4005; amd. Sec. 75, Ch. 27, Sp. L. November 1993; amd. Sec. 4, Ch. 414, L. 1997; amd. Sec. 2, Ch. 152, L. 2011; amd. Sec. 2, Ch. 601, L. 2025; amd. Sec. 9, Ch. 755, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 2, Ch. 601, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 9, Ch. 755, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 4, Ch. 601, L. 2025, provided: "[This act] applies to property tax years beginning after December 31, 2025."

Section 11, Ch. 755, L. 2025, provided: "[This act] applies to property tax years beginning after December 31, 2025."

15-10-306. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: (1)En. Sec. 90, p. 107, L. 1891; re-en. Sec. 3845, Pol. C. 1895; re-en. Sec. 2609, Rev. C. 1907; re-en. Sec. 2161, R.C.M. 1921; Cal. Pol. C. Sec. 3732; amd. Sec. 9, Ch. 96, L. 1923; re-en. Sec. 2161, R.C.M. 1935; amd. Sec. 2, Ch. 167, L. 1943; amd. Sec. 80, Ch. 405, L. 1973; Sec. 84-4006, R.C.M. 1947; (2)En. Sec. 93, p. 107, L. 1891; re-en. Sec. 3848, Pol. C. 1895; re-en. Sec. 2612, Rev. C. 1907; re-en. Sec. 2164, R.C.M. 1921; Cal. Pol. C. Sec. 3735; re-en. Sec. 2164, R.C.M. 1935; Sec. 84-4008, R.C.M. 1947; R.C.M. 1947, 84-4006, 84-4008.

15-10-307. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 92, p. 107, L. 1891; re-en. Sec. 3847, Pol. C. 1895; re-en. Sec. 2611, Rev. C. 1907; re-en. Sec. 2163, R.C.M. 1921; Cal. Pol. C. Sec. 3734; amd. Sec. 10, Ch. 96, L. 1923; re-en. Sec. 2163, R.C.M. 1935; amd. Sec. 4, Ch. 167, L. 1943; R.C.M. 1947, 84-4007.

15-10-308. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 94, p. 107, L. 1891; re-en. Sec. 3849, Pol. C. 1895; re-en. Sec. 2613, Rev. C. 1907; re-en. Sec. 2165, R.C.M. 1921; Cal. Pol. C. Sec. 3736; amd. Sec. 11, Ch. 96, L. 1923; re-en. Sec. 2165, R.C.M. 1935; R.C.M. 1947, 84-4009.

15-10-309 through 15-10-320 reserved.

15-10-321. Limitation on levy and computation of tax — new taxing jurisdictions. The department of revenue may not be required to levy or compute a tax for any new taxing jurisdiction created or for any change in an existing jurisdiction unless formally notified of its creation or change by January 1 of the year in which the taxes are to be levied.

History: En. 84-3811 by Sec. 1, Ch. 349, L. 1977; R.C.M. 1947, 84-3811; amd. Sec. 1, Ch. 76, L. 1981.

Part 4
Limitation on Property Taxes

15-10-401. Declaration of policy. (1) The state of Montana's reliance on the taxation of property to support education and local government has placed an unreasonable burden on the owners of all classes of property described in Title 15, chapter 6, part 1.

(2) Except as provided in 15-10-420, the people of the state of Montana declare that it is the policy of the state of Montana that no further property tax increases be imposed on property. In order to reduce volatility in property taxation and in order to reduce taxpayer uncertainty, it is the policy of the legislature to develop alternatives to market value for purposes of taxation.

History: En. Sec. 1, I.M. No. 105, approved Nov. 4, 1986; amd. Sec. 5, Ch. 463, L. 1997; amd. Sec. 92, Ch. 584, L. 1999.

15-10-402. Property tax limited to 1996 levels. Except as provided in 15-10-420, the amount of taxes levied on property described in Title 15, chapter 6, part 1, may not, for any taxing jurisdiction, exceed the amount levied for tax year 1996.

History: En. Sec. 2, I.M. No. 105, approved Nov. 4, 1986; amd. Sec. 6, Ch. 10, Sp. L. June 1989; amd. Sec. 2, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 745, L. 1991; amd. Sec. 11, Ch. 773, L. 1991; amd. Sec. 7, Ch. 267, L. 1993; amd. Sec. 6, Ch. 463, L. 1997; amd. Sec. 93, Ch. 584, L. 1999.

15-10-403 through 15-10-405 reserved.

15-10-406. Limitation of applicability. The minimum tax imposed by 15-16-118 is not affected by the provisions of this part.

History: En. Sec. 2, Ch. 474, L. 1991.

15-10-407 through 15-10-410 reserved.

15-10-411. Repealed. Sec. 14, Ch. 463, L. 1997.

History: En. Sec. 1, Ch. 654, L. 1987.

15-10-412. Repealed. Sec. 171, Ch. 584, L. 1999.

History: En. Sec. 2, Ch. 654, L. 1987; amd. Sec. 2, Ch. 213, L. 1989; amd. Sec. 3, Ch. 636, L. 1989; amd. Sec. 1, Ch. 662, L. 1989; amd. Sec. 1, Ch. 5, Sp. L. June 1989; amd. Sec. 1, Ch. 6, Sp. L. June 1989; amd. Sec. 1, Ch. 7, Sp. L. June 1989; amd. Sec. 3, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 668, L. 1991; amd. Sec. 9, Ch. 680, L. 1991; amd. Sec. 4, Ch. 745, L. 1991; amd. Sec. 12, Ch. 773, L. 1991; amd. Sec. 8, Ch. 267, L. 1993; amd. Sec. 20, Ch. 333, L. 1993; amd. Sec. 1, Ch. 424, L. 1993; amd. Sec. 1, Ch. 483, L. 1993; amd. Sec. 30, Ch. 561, L. 1993; amd. Sec. 6, Ch. 573, L. 1993; amd. Sec. 1, Ch. 300, L. 1997; amd. Sec. 7, Ch. 463, L. 1997.

15-10-413 through 15-10-419 reserved.

15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of 15-10-425(2)(b) and this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus the average rate of inflation for the prior 3 years, not to exceed 4%. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less 75% of the

current year's newly taxable value from class four property and the applicable amount pursuant to subsection (1)(b) of newly taxable value from classes other than class one, class two, and class four, plus the average rate of inflation for the prior 3 years.

(b) For the purposes of subsection (1)(a), the governmental entity may include the following percentages of newly taxable value from classes other than class one, class two, and class four:

(i) 100% of the taxable value of class eight property that receives an abatement under 15-6-138(4)(b);

(ii) 100% of the taxable value of property that receives a new or expanding industry abatement under 15-24-1402 or a historic property abatement under 15-24-1603 from the time the abatement is granted through completion of construction; and

(iii) 50% if the governmental entity creates a large taxpayer reserve account and meets the deposit requirement of 7-6-620(2); or

(iv) 40% if the governmental entity does not create a large taxpayer reserve account or does not meet the deposit requirement of 7-6-620(2).

(c) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(d) For the purposes of subsection (1)(a), the department shall calculate the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For the purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purposes of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purposes of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) This section does not apply to:

(a) mills imposed under 15-10-109, 20-9-331, 20-9-333, 20-9-360, or 20-25-439;

(b) school district levies established in Title 20 or any other title of the Montana Code Annotated; or

(c) a mill levy imposed for a newly created regional resource authority.

(6) For the purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements;

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7); and

(c) may not include revenue distributed to a county to provide state property tax assistance pursuant to 15-6-701.

(8) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (8)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (8)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(9) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(10) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for the purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.

History: En. Sec. 1, Ch. 584, L. 1999; amd. Secs. 6, 16(1), Ch. 11, Sp. L. May 2000; amd. Sec. 1, Ch. 191, L. 2001; amd. Sec. 1, Ch. 220, L. 2001; amd. Sec. 3, Ch. 361, L. 2001; amd. Sec. 3, Ch. 511, L. 2001; amd. Sec. 7, Ch. 571, L. 2001; amd. Sec. 94, Ch. 574, L. 2001; amd. Sec. 1, Ch. 115, L. 2003; amd. Sec. 1, Ch. 476, L. 2003; amd. Sec. 3, Ch. 376, L. 2005; amd. Sec. 3, Ch. 545, L. 2005; amd. Sec. 20, Ch. 521, L. 2007; amd. Sec. 26, Ch. 2, L. 2009; amd. Sec. 3, Ch. 57, L. 2009; amd. Sec. 27, Ch. 351, L. 2009; amd. Sec. 3, Ch. 412, L. 2009; amd. Sec. 9, Ch. 483, L. 2009; amd. Sec. 18, Ch. 347, L. 2011; amd. Sec. 2, Ch. 393, L. 2011; amd. Sec. 5, Ch. 411, L. 2011; amd. Sec. 22, Ch. 361, L. 2015; amd. Sec. 1, Ch. 328, L. 2017; amd. Sec. 7, Ch. 3, L. 2019; amd. Sec. 1, Ch. 332, L. 2019; amd. Sec. 9, Ch. 506, L. 2021; amd. Sec. 3, Ch. 45, L. 2023; amd. Sec. 4, Ch. 729, L. 2023; amd. Sec. 1, Ch. 95, L. 2025; amd. Sec. 2, Ch. 554, L. 2025; amd. Sec. 1, Ch. 636, L. 2025; amd. Sec. 1, Ch. 658, L. 2025; amd. Sec. 7, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 95, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 554, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 636, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 658, L. 2025. Amendment effective May 13, 2025.

See 2025 Session Law for amendment made by sec. 7, Ch. 775, L. 2025. Amendment effective June 19, 2025.

Applicability — Retroactive Applicability: Section 4, Ch. 554, L. 2025, provided: "[This act] applies to property tax years beginning after December 31, 2025."

Section 12, Ch. 636, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to the employer contribution rates on or after July 1, 2023, for the highway patrol officers' retirement system, the sheriffs' retirement system, and the game wardens' and peace officers' retirement system."

Section 25, Ch. 658, L. 2025, provided: "[This act] applies to school district budgeting and funding distributions for school fiscal years beginning on or after July 1, 2025."

15-10-421 through 15-10-424 reserved.

15-10-425. Mill levy election. (1) A county, consolidated government, incorporated city, incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an election as provided in this section.

(2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4 or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting in the election.

(a) The resolution, charter amendment, or petition must include:

(i) the specific purpose for which the additional money will be used;

(ii) the specific amount of money to be raised and the approximate number of mills to be imposed; and

(iii) whether the levy is permanent or the durational limit on the levy.

(b) Except for a school district levy established in Title 20, the resolution, charter amendment, or petition may provide that the mill levy is subject to the provisions of 15-10-420(1)(a).

(3) Notice of the election must be prepared by the governing body and given as provided in 13-1-108. The form of the ballot must reflect the content of the resolution or charter amendment and must include:

(a) the statement that "an increase in property taxes may lead to an increase in rental costs"; and

(b) a statement of the impact of the election on homes valued at $100,000, $300,000, and $600,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

(4) If the majority of voters voting on the question are in favor of the additional levy, the governing body is authorized to impose the levy in the amount specified in the resolution or charter amendment.

(5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without losing the authority to impose in a subsequent fiscal year up to the maximum amount approved in the election. However, nothing in this subsection authorizes a governing body to impose more than the approved levy in any fiscal year or to extend the duration of the approved levy.

History: En. Sec. 1, Ch. 495, L. 2001; en. Sec. 2, Ch. 574, L. 2001; amd. Sec. 1, Ch. 170, L. 2007; amd. Sec. 194, Ch. 49, L. 2015; amd. Sec. 2, Ch. 388, L. 2023; amd. Sec. 2, Ch. 95, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 95, L. 2025. Amendment effective October 1, 2025.

CHAPTERS 11 THROUGH 14 RESERVED

CHAPTER 15 PROPERTY TAX APPEALS

Part 1 — County Tax Appeal Board

15-15-101. County tax appeal board — meetings and compensation.
15-15-102. Application for reduction in valuation — reduced tax rate — certification as primary residence.
15-15-103. Examination of applicant — failure to hear application.
15-15-104. Appeal to Montana tax appeal board.
15-15-105. Repealed.
15-15-106. Repealed.

Part 2 — Motor Vehicle Appeals

15-15-201. Motor vehicle tax appeals — payment and protest of local option taxes or fees in lieu of tax on motor vehicles.

Chapter Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.
Montana Tax Appeal Board, Title 15, ch. 2.
Appeal by person aggrieved by state debt collection procedure, 17-4-111.

Part 1
County Tax Appeal Board

15-15-101. County tax appeal board — meetings and compensation. (1) The board of county commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve. A person may not be a member of a county tax appeal board if the person was an employee of the department less than 36 months before the date of appointment.

(2) (a) The members receive compensation as provided in subsection (2)(b) and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the Montana tax appeal board. Travel expenses and compensation must be paid from the appropriation to the Montana tax appeal board.

(b) (i) The daily compensation for a member is as follows:

(A) $60 for 4 hours of work or less; and

(B) $120 for more than 4 hours of work.

(ii) For the purpose of calculating work hours in this subsection (2)(b), work includes hearing tax appeals, deliberating with other board members, and attending meetings called by the Montana tax appeal board.

(3) Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the Montana tax appeal board.

(4) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the board. The county tax appeal board shall continue in session from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department until the business of hearing protests is disposed of and may meet after December 31 to hear an appeal at the discretion of the county tax appeal board.

(5) In counties that have appointed more than three members to the county tax appeal board, only three members shall hear each appeal. The presiding officer shall select the three members hearing each appeal.

(6) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level or determine eligibility as a primary residence pursuant to 15-6-703 and determine eligibility for the homestead reduced tax rate provided for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411. Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of the current tax year.

(7) Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2572, Rev. C. 1907; re-en. Sec. 2113, R.C.M. 1921; Cal. Pol. C. Sec. 3672; re-en. Sec. 2113, R.C.M. 1935; amd. Sec. 36, Ch. 405, L. 1973; amd. Sec. 1, Ch. 38, L. 1974; amd. Sec. 1, Ch. 285, L. 1975; amd. Sec. 1, Ch. 355, L. 1977; amd. Sec. 25, Ch. 453, L. 1977; R.C.M. 1947, 84-601; amd. Sec. 1, Ch. 630, L. 1979; amd. Sec. 2, Ch. 502, L. 1981; amd. Sec. 5, Ch. 526, L. 1981; amd. Sec. 1, Ch. 216, L. 1983; amd. Sec. 13, Ch. 526, L. 1983; amd. Sec. 1, Ch. 242, L. 1991; amd. Sec. 9, Ch. 594, L. 1993; amd. Sec. 76, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 56, L. 1999; amd. Sec. 1, Ch. 197, L. 2011; amd. Sec. 2, Ch. 329, L. 2015; amd. Sec. 33, Ch. 142, L. 2021; amd. Sec. 9, Ch. 691, L. 2023; amd. Sec. 1, Ch. 168, L. 2025; amd. Sec. 17, Ch. 767, L. 2025; amd. Sec. 8, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 1, Ch. 168, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 17, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 8, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 16, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Appeal on increase of value over owner's statement, 15-1-404.

No reduction allowed on assessment of concealed property, 15-8-306.

15-15-102. Application for reduction in valuation — reduced tax rate — certification as primary residence. (1) The county tax appeal board may not reduce the valuation of property or review eligibility for the homestead reduced tax rate provided for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411, or review eligibility as a primary residence under 15-6-703 unless either the taxpayer or the taxpayer's agent makes and files a written application with the county tax appeal board.

(2) The application may be obtained at the local appraisal office or from the county tax appeal board. The completed application must be submitted to the county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from the county clerk and recorder.

(3) One application may be submitted during each valuation cycle. The application must be submitted within the time periods provided for in 15-6-418, 15-6-705, or 15-7-102(3)(a).

(4) A taxpayer who receives an informal review by the department of revenue as provided in 15-6-418, 15-6-705, or 15-7-102(3)(a)(i) and (3)(a)(ii) may appeal the decision of the department of revenue to the county tax appeal board as provided in 15-6-705(2) and 15-7-102(6). The taxpayer may not file a subsequent application for the same property with the county tax appeal board during the same valuation cycle.

(5) If the department's determination after review is not made in time to allow the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during the next tax year, but the decision by the county tax appeal board is effective for the year in which the request for review was filed with the department. The application must state the post-office address of the applicant, specifically describe the property involved, and state the facts upon which it is claimed the reduction should be made or the property should be certified as a primary residence.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2574, Rev. C. 1907; re-en. Sec. 2115, R.C.M. 1921; Cal. Pol. C. Sec. 3674; amd. Sec. 2, Ch. 187, L. 1933; re-en. Sec. 2115, R.C.M. 1935; amd. Sec. 1, Ch. 103, L. 1945; amd. Sec. 2, Ch. 196, L. 1957; amd. Sec. 38, Ch. 405, L. 1973; amd. Sec. 1, Ch. 360, L. 1975; amd. Sec. 3, Ch. 155, L. 1977; amd. Sec. 3, Ch. 355, L. 1977; R.C.M. 1947, 84-603; amd. Sec. 2, Ch. 630, L. 1979; amd. Sec. 4, Ch. 9, L. 1989; amd. Sec. 3, Ch. 227, L. 1993; amd. Sec. 77, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 30, L. 1995; amd. Sec. 3, Ch. 56, L. 1999; amd. Sec. 23, Ch. 361, L. 2015; amd. Sec. 2, Ch. 20, L. 2017; amd. Sec. 6, Ch. 424, L. 2023; amd. Sec. 18, Ch. 767, L. 2025; amd. Sec. 9, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 18, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 9, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 17, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Department to defend property tax appeals, 15-8-115.

15-15-103. Examination of applicant — failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person or eligibility for the homestead reduced tax rate provided for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411 or eligibility as a primary residence pursuant to 15-6-703. A reduction may not be made or a property certified as a primary residence unless the applicant makes an application, as provided in 15-15-102, and attends the county board hearing. An appeal of the county board's decision may not be made to the Montana tax appeal board unless the person or the person's agent has exhausted the remedies available through the county board. In order to exhaust the remedies, the person or the person's agent shall attend the county board hearing. On written request by the person or the person's agent and on the written concurrence of the department, the county board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing and the deliberation of the county tax appeal board in rendering a decision must be electronically recorded and preserved for 1 year. If the decision of the county board is appealed, the record of the proceedings, including the electronic recording of all testimony and the deliberation of the county tax appeal board, must be forwarded, together with all exhibits, to the Montana board. The date of the hearing, the proceedings before the county board, and the decision must be entered upon the minutes of the county board, and the county board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county board must be transmitted to the Montana board no later than 3 days after the county board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, eligibility for a reduced tax rate, or eligibility as a primary residence, the taxpayer's application is considered to be granted on the day following the county board's final meeting for that year. The department shall enter the appraisal, classification, tax rate, or eligibility as a primary residence sought in the application in the property tax record. An application is not automatically granted for the following appeals:

(i) those listed in 15-2-302(1); and

(ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the county board during its current session.

(b) The county board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the Montana board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property.

(3) The county tax appeal board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the county tax appeal board does not use the appraisal provided by the taxpayer in conducting the appeal, the county board shall provide to the taxpayer the reason for not using the appraisal.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2575, Rev. C. 1907; re-en. Sec. 2116, R.C.M. 1921; Cal. Pol. C. Sec. 3675; amd. Sec. 3, Ch. 187, L. 1933; re-en. Sec. 2116, R.C.M. 1935; amd. Sec. 3, Ch. 196, L. 1957; amd. Sec. 39, Ch. 405, L. 1973; amd. Sec. 2, Ch. 38, L. 1974; amd. Sec. 4, Ch. 355, L. 1977; R.C.M. 1947, 84-604; amd. Sec. 3, Ch. 630, L. 1979; (2)En. Sec. 4, Ch. 630, L. 1979; amd. Sec. 3, Ch. 471, L. 1987; amd. Sec. 4, Ch. 227, L. 1993; amd. Sec. 2, Ch. 15, Sp. L. November 1993; amd. Sec. 78, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 134, L. 1997; amd. Sec. 4, Ch. 56, L. 1999; amd. Sec. 4, Ch. 85, L. 1999; amd. Sec. 1, Ch. 533, L. 2005; amd. Sec. 3, Ch. 26, L. 2015; amd. Sec. 24, Ch. 361, L. 2015; amd. Sec. 34, Ch. 142, L. 2021; amd. Sec. 10, Ch. 691, L. 2023; amd. Sec. 19, Ch. 767, L. 2025; amd. Sec. 10, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 19, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 10, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 18, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-15-104. Appeal to Montana tax appeal board. (1) If the appearance provisions of 15-15-103(1) have been complied with, a person or the department, on behalf of the state, or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the Montana board under 15-2-301.

(2) If an appeal has been automatically granted by a county tax appeal board pursuant to 15-15-103(2), the department, on behalf of the state, or any municipal corporation aggrieved by the action may appeal to the Montana tax appeal board under 15-2-301. The time for filing an appeal commences on receipt by the department of the written notification required by 15-15-103(2)(b).

History: Ap. p. Sec. 9, Ch. 3, L. 1923; re-en. Sec. 2122.9, R.C.M. 1935; amd. Sec. 1, Ch. 33, L. 1939; amd. Sec. 54, Ch. 405, L. 1973; amd. Sec. 4, Ch. 38, L. 1974; amd. Sec. 1, Ch. 277, L. 1974; amd. Sec. 1, Ch. 155, L. 1977; amd. Sec. 1, Ch. 249, L. 1977; Sec. 84-709, R.C.M. 1947; Ap. p. by Code Commissioner, 1979; R.C.M. 1947, 84-709(part); amd. Sec. 3, Ch. 15, Sp. L. November 1993; amd. Sec. 2, Ch. 533, L. 2005; amd. Sec. 35, Ch. 142, L. 2021.

15-15-105. Repealed. Sec. 7, Ch. 501, L. 1981.

History: En. 84-709.2 by Sec. 2, Ch. 404, L. 1975; R.C.M. 1947, 84-709.2(part).

15-15-106. Repealed. Sec. 7, Ch. 501, L. 1981.

History: En. 84-709.3 by Sec. 3, Ch. 404, L. 1975; R.C.M. 1947, 84-709.3(part).

Part 2
Motor Vehicle Appeals

15-15-201. Motor vehicle tax appeals — payment and protest of local option taxes or fees in lieu of tax on motor vehicles. (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on light vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after receipt of the renewal notice from the department as provided in 61-3-535. The application must be on a form prescribed by the department of justice in consultation with the Montana tax appeal board.

(b) The application must include a specific explanation of the basis for the taxpayer's appeal. The basis for appeal must be related to the factors to be considered and applied by the department of justice under 61-3-503 and 61-3-529 and established by the department's rulemaking authority in 61-14-101.

(2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and distributed in the same manner as those received without protest.

(b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

(3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next regularly scheduled session if the application for the appeal was filed by December 1. If during its current session, a county tax appeal board refuses or fails to hear a taxpayer's application that was timely filed by December 1, then the taxpayer's application is considered to be granted on the day following the board's final meeting for that year.

(b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in the following year. If a taxpayer's application that was timely filed after December 1 of the current session of the county tax appeal board is held over to a session in the following year and if the county tax appeal board refuses or fails to hear the application during the following session, then the application is considered to be granted on the day following the board's final meeting for that year.

History: **En. Sec. 1, Ch. 85, L. 1999; amd. Sec. 6, Ch. 85, L. 1999; amd. Sec. 2, Ch. 191, L. 2001; amd. Sec. 11, Ch. 542, L. 2005; amd. Sec. 16, Ch. 596, L. 2005; amd. Sec. 1, Ch. 335, L. 2019; amd. Sec. 36, Ch. 142, L. 2021.**

CHAPTER 16
COLLECTION OF PROPERTY TAXES

Part 1 — Notice and Payment

15-16-101. Treasurer to publish notice — manner of publication.
15-16-102. Time for payment — penalty for delinquency.
15-16-103. Special improvement districts with annual interest payments — collection of special assessments for all special improvements.
15-16-104. Entry of payment — receipt.
15-16-105. When property assessed more than once.
15-16-106 through 15-16-110 reserved.
15-16-111. Repealed.
15-16-112. Repealed.
15-16-113. Repealed.
15-16-114. Repealed.
15-16-115. Repealed.
15-16-116. Repealed.
15-16-117. Repealed.
15-16-118. Minimum tax payment — limitation of appeal.
15-16-119. Taxation of personal property — duty of department — collection by department of administration.
15-16-120 reserved.
15-16-121. Repealed.
15-16-122. Alternative payment schedule for primary residences.

Part 2 — Special Payment Provisions

15-16-201. Tax prepayment — new industrial facilities.
15-16-202. Repealed.
15-16-203. Assessment of property previously exempt.

Part 3 — Reporting Delinquent Taxes

15-16-301. Delinquent list — list of taxes suspended or cancelled — real property.
15-16-302. Tabulation and transmittal of property delinquent list.
15-16-303. Treasurer charged with delinquent taxes.
15-16-304. Repealed.
15-16-305. Repealed.

Part 4 — Liens and Limitations

15-16-401. Tax due as a judgment or lien.
15-16-402. Tax on personal property lien on realty — separate assessment — filing of mortgage satisfaction.
15-16-403. Lien on real property and improvements.
15-16-404. County lien on money of taxpayer.

Part 5 — Collection by Suit

15-16-501. Repealed.
15-16-502. Repealed.
15-16-503. Collection by suit of personal property taxes when taxpayer moves to another county.
15-16-504. Evidence at trial.
15-16-505. Repealed.
15-16-506. Civil action to collect delinquent taxes.

Part 6 — Refunds

15-16-601. Repealed.
15-16-602. Concurrent remedies.
15-16-603. Refund of taxes — limitations on refunds.
15-16-604. Judicial review of tax refund denials.
15-16-605. Payment of refunds — exception.
15-16-606 through 15-16-610 reserved.
15-16-611. Reduction of property tax for property destroyed by natural disaster — proration of taxes on replaced property.

15-16-612. Refund of tax paid.
15-16-613. Refund of certain taxes paid on migratory property.

Part 7 — Cancellations

15-16-701. List of delinquent personal property taxes and real property taxes.
15-16-702. Cancellation of taxes and obligations — filing of lists.
15-16-703. Adjustment of accounts after cancellation.
15-16-704. Certain unpaid taxes uncollectible — stricken from records.

Part 8 — Suspensions

15-16-801. Payment of suspended delinquent property taxes.
15-16-802. Repealed.
15-16-803. Repealed.

Chapter Cross-References

Suspension of property taxes for persons in military services — collection procedures abated, 10-1-606.
Suspension or cancellation of delinquent property taxes on commercial property, 15-24-1701 through 15-24-1703.
State or county authorized to acquire property by taxation, 70-1-204.
Payment of taxes required to prove adverse possession, 70-19-411.
Taxes, assessments, and liens as encumbrance on real property, 70-20-305.

Part 1
Notice and Payment

15-16-101. Treasurer to publish notice — manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located;

(v) the amount of the total tax due itemized by mill levy that is levied as city tax, county tax, state tax, school district tax, and other tax and, for a primary residence, the total amount of state property tax assistance received under 15-6-701;

(vi) an indication of which mill levies are voted levies, including voted levies to impose a new mill levy, to increase a mill levy that is required to be submitted to the electors, or to exceed the mill levy limit provided for in 15-10-420;

(vii) except as provided in subsection (2)(c), an itemization of the taxes due for each mill levy and a comparison to the amount due for each mill levy in the prior year; and

(viii) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs under Title 15, chapter 6, part 3, the homestead reduced tax rate provided for in 15-6-405, the rental property reduced tax rate provided for in 15-6-411, the state property tax assistance provided for in 15-6-701, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341.

(b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to draw attention, a statement that a tax lien is attached to the property, that failure

to respond will result in loss of property, and that the taxpayer may contact the county treasurer for complete information.

(c) The information required in subsection (2)(a)(vii) may be posted on the county treasurer's website instead of being included on the written notice.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of $5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

History: Ap. p. Sec. 3860, Pol. C. 1895; amd. Sec. 1, p. 97, L. 1899; re-en. Sec. 2616, Rev. C. 1907; amd. Sec. 1, Ch. 15, L. 1917; re-en. Sec. 2169, R.C.M. 1921; Cal. Pol. C. Sec. 3746; amd. Sec. 2, Ch. 96, L. 1923; amd. Sec. 2, Ch. 67, L. 1931; re-en. Sec. 2169, R.C.M. 1935; amd. Sec. 1, Ch. 134, L. 1977; Sec. 84-4101, R.C.M. 1947; Ap. p. Sec. 3861, Pol. C. 1895; re-en. Sec. 2617, Rev. C. 1907; re-en. Sec. 2170, R.C.M. 1921; Cal. Pol. C. Sec. 3749; re-en. Sec. 2170, R.C.M. 1935; Sec. 84-4105, R.C.M. 1947; R.C.M. 1947, 84-4101, 84-4105; amd. Sec. 1, Ch. 492, L. 1981; amd. Sec. 1, Ch. 576, L. 1981; amd. Sec. 1, Ch. 6, Sp. L. 1981; amd. Sec. 29, Ch. 587, L. 1987; amd. Sec. 79, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 448, L. 1999; amd. Sec. 1, Ch. 472, L. 2001; amd. Sec. 14, Ch. 453, L. 2005; amd. Sec. 3, Ch. 110, L. 2007; amd. Sec. 10, Ch. 483, L. 2009; amd. Sec. 25, Ch. 361, L. 2015; amd. Sec. 1, Ch. 67, L. 2017; amd. Sec. 3, Ch. 441, L. 2017; amd. Sec. 2, Ch. 446, L. 2021; amd. Sec. 1, Ch. 201, L. 2023; amd. Sec. 20, Ch. 767, L. 2025; amd. Sec. 11, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 20, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 11, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 19, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Cross-References

Treasurer as collector of taxes, 7-6-2503.

Definition of school district, 20-15-403.

Hail insurance assessment included with statement, 80-2-224.

Copy of water rights filing notice included with statement, 85-2-213.

15-16-102. Time for payment — penalty for delinquency. (1) Unless suspended or canceled under the provisions of 10-1-606, 15-23-708, or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as provided in this section.

(2) (a) Except as provided in subsection (2)(b), one-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(b) For a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, one-seventh of the taxes must be paid on or before 5 p.m. on the last day of each month beginning on November 30 and ending on May 31 provided that the full amount of the taxes payable is made by 5 p.m. on May 31 of each year. The seven monthly payments must be as nearly equal as possible and are due on November 30, December 31, January 31, February 28, March 31, April 30, and May 31.

(3) (a) (i) Except as provided in subsection (3)(a)(ii), unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(ii) For a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, unless one-seventh of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and the remaining tax payments are paid on or before the alternative payment schedule

due dates provided for in subsection (2)(b), the amount payable is delinquent and draws interest and penalty as provided in subsection (3)(a)(i).

(b) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) Except for a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, if taxes on property qualifying under the property tax assistance program provided for in 15-6-305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a payment equal to the delinquent taxes, including penalty and interest for one-half of a delinquent tax year, if taxes currently due for the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of $5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207.

History: **En. Sec. 1, Ch. 96, L. 1923; amd. Sec. 1, Ch. 79, L. 1929; amd. Sec. 1, Ch. 67, L. 1931; amd. Sec. 4, Ch. 158, L. 1933; Sec. 1(a) amd. Sec. 1, Ch. 1, Ex. L. 1933; re-en. Sec. 2169.2, R.C.M. 1935; R.C.M. 1947, 84-4103; amd. Sec. 2, Ch. 165, L. 1979; amd. Sec. 4, Ch. 527, L. 1981; amd. Sec. 2, Ch. 576, L. 1981; amd. Sec. 2, Ch. 6, Sp. L. 1981; amd. Sec. 19, Ch. 695, L. 1985; amd. Sec. 1, Ch. 69, L. 1987; amd. Sec. 30, Ch. 587, L. 1987; amd. Sec. 8, Ch. 655, L. 1987; amd. Sec. 14, Ch. 449, L. 1989; amd. Sec. 1, Ch. 631, L. 1989; amd. Sec. 3, Ch. 699, L. 1989; amd. Sec. 1, Ch. 704, L. 1989; amd. Sec. 1, Ch. 33, L. 1995; amd. Sec. 29, Ch. 451, L. 1995; amd. Sec. 59, Ch. 42, L. 1997; amd. Sec. 3, Ch. 448, L. 1999; amd. Sec. 1, Ch. 410, L. 2001; amd. Sec. 3, Ch. 315, L. 2003; amd. Sec. 1, Ch. 436, L. 2003; amd. Sec. 2, Ch. 587, L. 2005; amd. Sec. 3, Ch. 6, L. 2009; amd. Sec. 26, Ch. 361, L. 2015; amd. Sec. 2, Ch. 67, L. 2017; amd. Sec. 10, Ch. 145, L. 2021; amd. Sec. 11, Ch. 691, L. 2023; amd. Sec. 2, Ch. 734, L. 2023.**

Cross-References

County Treasurer to collect city and town taxes, 7-6-4413.
Definition of improvements, 15-1-101.
Reduction of tax for destroyed property, 15-16-611.
Suspension of taxes, Title 15, ch. 16, part 8.
Applicable to payment of tax on net proceeds and royalties of mines, 15-23-507.
Applicable to payment of tax on metal mines, 15-23-804.
Delinquent taxpayer ineligible for hail insurance program, 80-2-207.
Collection of irrigation district assessments, 85-7-2136.
Collection of drainage district assessments, 85-8-601.
Collection of conservancy district assessments, 85-9-604.

15-16-103. Special improvement districts with annual interest payments — collection of special assessments for all special improvements. (1) Special assessments or installments of special assessments made for special improvements in towns and cities, the bonds for which annual interest payments have been specified, and that have been duly and regularly made and levied by resolution according to law, are payable as provided in this section.

(2) (a) Except as provided in subsection (2)(b), one-half of the taxes are payable on or before 5 p.m. on November 30 of each year and one-half of the taxes are payable on or before 5 p.m. on May 31 of each year.

(b) For a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, one-seventh of the taxes must be paid on or before 5 p.m. on the last day of each month beginning on November 30 and ending on May 31 provided that the full amount of the taxes payable is made by 5 p.m. on May 31 of each year. The seven monthly payments must be as nearly equal as possible and are due on November 30, December 31, January 31, February 28, March 31, April 30, and May 31.

(3) (a) (i) Except as provided in subsection (3)(a)(ii),if the taxes are not paid on or before 5 p.m. on November 30, they are subject to the same interest and penalty for nonpayment as delinquent property taxes under 15-16-102. The penalty and interest may be waived by resolution of the city council, as provided in 15-16-102(6).

(ii) For a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, unless one-seventh of the taxes are paid on or before 5 p.m. on November 30 of each year, and the remaining tax payments are paid on or before the alternative payment schedule due dates provided for in subsection (2)(b), the amount payable is delinquent and draws interest and penalty as provided in subsection (3)(a)(i).

(b) If the taxes are not paid on or before 5 p.m. on May 31, they are subject to the same interest and penalty for nonpayment as delinquent property taxes under 15-16-102. The penalty and interest may be waived by resolution of the city council, as provided in 15-16-102(6).

(4) The collection of special assessments or installments of special assessments made for special improvements in towns and cities are as provided by 7-12-4181.

History: **En. Sec. 1, Ch. 96, L. 1923; amd. Sec. 1, Ch. 79, L. 1929; amd. Sec. 1, Ch. 67, L. 1931; amd. Sec. 4, Ch. 158, L. 1933; re-en. Sec. 2169.3, R.C.M. 1935; R.C.M. 1947, 84-4104; amd. Sec. 5, Ch. 527, L. 1981; amd. Sec. 15, Ch. 449, L. 1989; amd. Sec. 3, Ch. 734, L. 2023.**

Cross-References

Penalty and interest on delinquent taxes, 15-16-102.

15-16-104. Entry of payment — receipt. (1) The county treasurer shall note the date and the amount of the payment of any tax in the property tax record opposite the name of the person paying.

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall give a receipt to the person paying any tax, specifying the amount of the assessment and the tax paid, with a description of the property assessed.

(b) If the payment is received through the mail or by any electronic means, the county treasurer shall issue a receipt only on request of the person paying the tax. If the county treasurer issues a receipt, it must contain the information specified in subsection (2)(a).

History: **(1)En. Sec. 3862, Pol. C. 1895; re-en. Sec. 2618, Rev. C. 1907; re-en. Sec. 2171, R.C.M. 1921; Cal. Pol. C. Sec. 3750; amd. Sec. 3, Ch. 96, L. 1923; re-en. Sec. 2171, R.C.M. 1935; Sec. 84-4106, R.C.M. 1947; (2)En. Sec. 97, p. 108, L. 1891; re-en. Sec. 3863, Pol. C. 1895; re-en. Sec. 2619, Rev. C. 1907; re-en. Sec. 2172, R.C.M. 1921; Cal. Pol. C. Sec. 3751; re-en. Sec. 2172, R.C.M. 1935; Sec. 84-4107, R.C.M. 1947; R.C.M. 1947, 84-4106, 84-4107; amd. Sec. 2, Ch. 599, L. 1987; amd. Sec. 80, Ch. 27, Sp. L. November 1993.**

15-16-105. When property assessed more than once. When the county treasurer discovers that any property has been assessed more than once for the same year, the county treasurer shall collect only the tax due and report that fact to the department.

History: **En. Sec. 146, p. 117, L. 1891; re-en. Sec. 3914, Pol. C. 1895; re-en. Sec. 2670, Rev. C. 1907; re-en. Sec. 2223, R.C.M. 1921; Cal. Pol. C. Sec. 3805; re-en. Sec. 2223, R.C.M. 1935; R.C.M. 1947, 84-4178; amd. Sec. 81, Ch. 27, Sp. L. November 1993.**

15-16-106 through 15-16-110 reserved.

15-16-111. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2683, Rev. C. 1907; re-en. Sec. 2238, R.C.M. 1921; Cal. Pol. C. Sec. 3820; amd. Sec. 1, Ch. 102, L. 1923; amd. Sec. 1, Ch. 143, L. 1929; re-en. Sec. 2238, R.C.M. 1935; amd. Sec. 1, Ch. 6, L. 1939; amd. Sec. 1, Ch. 136, L. 1943; amd. Sec. 1, Ch. 23, L. 1951; amd. Sec. 82, Ch. 405, L. 1973; R.C.M. 1947, 84-4201; amd. Sec. 31, Ch. 587, L. 1987.**

15-16-112. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2690, Rev. C. 1907; re-en. Sec. 2251, R.C.M. 1921; re-en. Sec. 2251, R.C.M. 1935; amd. Sec. 84, Ch. 405, L. 1973; R.C.M. 1947, 84-4211; amd. Sec. 32, Ch. 587, L. 1987.**

15-16-113. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: **En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2684, Rev. C. 1907; re-en. Sec. 2239, R.C.M. 1921; Cal. Pol. C. Sec. 3821; amd. Sec. 2, Ch. 102, L. 1923; re-en. Sec. 2239, R.C.M. 1935; amd. Sec. 1, Ch. 107, L. 1939; amd.**

Sec. 2, Ch. 23, L. 1951; amd. Sec. 1, Ch. 166, L. 1955; amd. Sec. 1, Ch. 165, L. 1963; amd. Sec. 83, Ch. 405, L. 1973; amd. Sec. 1, Ch. 162; amd. Sec. 1, Ch. 475, L. 1975; amd. Sec. 1, Ch. 105, L. 1977; R.C.M. 1947, 84-4202(1), (2); amd. Sec. 33, Ch. 587, L. 1987; amd. Sec. 2, Ch. 631, L. 1989.

15-16-114. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.

History: En. Sec. 158, p. 121, L. 1891; re-en. Sec. 3943, Pol. C. 1895; amd. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2686, Rev. C. 1907; re-en. Sec. 2247, R.C.M. 1921; Cal. Pol. C. Sec. 3823; amd. Sec. 1, Ch. 122, L. 1933; re-en. Sec. 2247, R.C.M. 1935; amd. Sec. 15, Ch. 388, L. 1975; R.C.M. 1947, 84-4209(part); amd. Sec. 34, Ch. 587, L. 1987.

15-16-115. Repealed. Sec. 4, Ch. 189, L. 2005.

History: En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2690, Rev. C. 1907; re-en. Sec. 2250, R.C.M. 1921; re-en. Sec. 2250, R.C.M. 1935; R.C.M. 1947, 84-4210; amd. Sec. 35, Ch. 587, L. 1987; amd. Sec. 82, Ch. 27, Sp. L. November 1993.

15-16-116. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1, Ch. 81, L. 1923; re-en. Sec. 2165.1, R.C.M. 1935; R.C.M. 1947, 84-4010.

15-16-117. Repealed. Sec. 4, Ch. 189, L. 2005.

History: (1), (2)En. Sec. 1, Ch. 168, L. 1935; re-en. Sec. 2252.1, R.C.M. 1935; Sec. 84-4213, R.C.M. 1947; (3) En. Sec. 2, Ch. 168, L. 1935; re-en. Sec. 2252.2, R.C.M. 1935; Sec. 84-4214, R.C.M. 1947; R.C.M. 1947, 84-4213, 84-4214; amd. Sec. 36, Ch. 587, L. 1987; amd. Sec. 3, Ch. 631, L. 1989; amd. Sec. 4, Ch. 561, L. 1993; amd. Sec. 83, Ch. 27, Sp. L. November 1993; amd. Sec. 94, Ch. 584, L. 1999; amd. Sec. 8, Ch. 571, L. 2001; amd. Sec. 95, Ch. 574, L. 2001.

15-16-118. Minimum tax payment — limitation of appeal. (1) If the taxes and special assessments due for the current year shown in the written notice sent to the taxpayer as required in 15-16-101(2) are less than $5 or if a tax notice of taxes and special assessments due on personal property is less than $5, the county treasurer shall notify the taxpayer that a minimum tax of $5 is imposed and due. The $5 tax is imposed for purposes of defraying administrative expenses incurred in administering the tax. The difference between the taxes and special assessments and the minimum tax of $5 is to be deposited in the county general fund.

(2) The notification of the $5 minimum tax required by subsection (1) must be made in the notice required in 15-16-101(2) or in the notice of taxes and special assessments due on personal property.

(3) The minimum tax imposed by this section is not affected by the limitation on property taxes contained in Title 15, chapter 10, part 4.

(4) The minimum assessment imposed by this section does not apply to assessments levied against property owned by the state or a county, consolidated local government, city, town, school district, or other governmental entity unless the total assessments levied against all the property owned by the governmental entity are less than $5.

History: En. Sec. 1, Ch. 474, L. 1991; amd. Sec. 1, Ch. 557, L. 1993.

15-16-119. Taxation of personal property — duty of department — collection by department of administration. (1) If the taxes on personal property are not a lien upon real property in the same county in an amount sufficient to secure the payment of the taxes, the department shall assess the property and compute the tax for the assessment. The department shall notify the county treasurer of the assessment and the amount of taxes due. To compute the taxes due on the personal property, the department shall use the appropriate mills levied during the previous year.

(2) The county treasurer shall notify the person against whom the tax is assessed and any other person having a properly perfected security interest of record of the amount and due date of the tax. The tax is due and payable 30 days from the date the treasurer mails the notice. Taxes not paid within 30 days become delinquent, and the penalty and interest provisions of 15-16-101 must be applied.

(3) The county treasurer shall, after the tax becomes delinquent, either proceed under subsection (7) or levy upon and take into possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer. The county treasurer may proceed to sell the property in the same manner as property is sold on execution by the sheriff.

(4) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county

is ex officio a deputy county treasurer for sale purposes and may receive payment of the taxes, penalty, and interest. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) The county treasurer and the treasurer's sureties are liable on the treasurer's official bond for all taxes on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to levy upon and sell the personal property for the taxes levied upon the property, including penalty and interest.

(6) Failure by the sheriff, undersheriff, or deputy sheriff acting as a deputy county treasurer to make the levy and sale results in a levy against the official bond of the sheriff, undersheriff, or deputy sheriff for payment of the delinquent tax, including penalty and interest.

(7) The county treasurer shall give the board of county commissioners a list of delinquent personal property taxpayers and the taxes due. The board may order the county treasurer to verify the list under oath and to send a copy of the list to the department of administration for collection under Title 17, chapter 4, part 1.

(8) The provisions of this section do not apply to property for which delinquent coal gross proceeds taxes or property taxes have been suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17.

History: En. Sec. 157, Ch. 27, Sp. L. November 1993; amd. Sec. 6, Ch. 589, L. 1995; amd. Sec. 60, Ch. 42, L. 1997; amd. Sec. 1, Ch. 197, L. 1999; amd. Sec. 11, Ch. 145, L. 2021.

15-16-120 reserved.

15-16-121. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 20, Ch. 695, L. 1985; amd. Sec. 9, Ch. 655, L. 1987; amd. Sec. 2, Ch. 33, L. 1995.

15-16-122. Alternative payment schedule for primary residences. (1) At the request of the owner of a primary residence, a county treasurer shall enter into a written agreement with the owner for the payment of current property taxes on an alternative payment schedule of seven payments as provided in 15-16-102(2)(b) and this section.

(2) To pay property taxes on the alternative payment schedule, the owner of a primary residence shall apply on forms provided by the county treasurer. The application must include a sworn statement, under penalty of false swearing provided for in 45-7-202, that the property is a primary residence.

(3) Application must be made by September 30 for enrollment in the current year. When enrolled in the alternative payment schedule, the owner remains enrolled until the owner provides a written request to terminate the alternative payment schedule. Requests to terminate the alternative payment schedule must be made before September 30 to apply to the current year. Termination requests made after September 30 will apply to payments for the next tax year.

(4) A county treasurer may require enrollment in an automated payment program as a condition of enrollment in the alternative payment schedule.

(5) A property owner enrolled in the alternative payment schedule may pay taxes before the due dates provided for in 15-16-102(2)(b). The county treasurer may not accept a payment under the alternative payment schedule from a third-party escrow service, lender, or mortgage company.

(6) As provided in this section, the following definition applies:

(a) "Primary residence" means a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and the surrounding land classified as class four residential property that was owned and occupied by the taxpayer for at least 7 months of the year.

(b) The term does not include a dwelling that is not on a permanent foundation and that is classified by the department of revenue as personal property.

History: En. Sec. 1, Ch. 734, L. 2023.

Part 2
Special Payment Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-16-201. Tax prepayment — new industrial facilities. (1) A person intending to construct or locate a major new industrial facility, as defined in subsection (2) of this section, shall upon request of the board of county commissioners of the county in which the facility is to be located, prepay, when permission is granted to construct or locate by the appropriate governmental agency, an amount equal to three times the estimated property tax due the year the facility is completed. The person who is to prepay under this section shall not be obligated to prepay the entire amount at one time but, upon request of the board of county commissioners of the county, shall prepay only that amount shown to be needed from time to time. To assure this payment or payments, the person who is to prepay shall guarantee to the board of county commissioners and also have a bank or banks guarantee that these amounts will be paid as needed for expenditures created by the impact. When the facility is completed and assessed by the department of revenue, it shall be subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that one-fifth of the amount prepaid shall be allowed as a credit against property taxes in each of the first 5 years after the start of productive operation of the facility.

(2) A major new industrial facility is a manufacturing or mining facility other than a large-scale mineral development as defined in 90-6-302 which will employ on an average annual basis at least 100 people in construction or operation of the facility and which will create a substantial adverse impact on existing state, county, or municipal services.

History: En. 84-41-105 by Sec. 1, Ch. 449, L. 1975; R.C.M. 1947, 84-41-105; amd. Sec. 12, Ch. 617, L. 1981; amd. Sec. 3, Ch. 227, L. 1991.

Cross-References

Coal Board grants for payment of credit, 90-6-205.

15-16-202. Repealed. Sec. 125, Ch. 596, L. 2005.

History: En. Sec. 1, Ch. 421, L. 1987; amd. Sec. 13, Ch. 649, L. 1987; amd. Sec. 10, Ch. 200, L. 1997; amd. Sec. 7, Ch. 496, L. 1997; amd. Sec. 3, Ch. 191, L. 2001; amd. Sec. 3, Ch. 592, L. 2003.

15-16-203. Assessment of property previously exempt. (1) Subject to 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that during a tax year become the property of a person subject to taxation must be assessed and taxed from the date of change from a nontaxable status to a taxable status.

(2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and payable for the current year on the property under 15-16-102 if the property was not exempt.

(3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property will be in taxable status bears to 365.

(4) If the property has not been assessed and taxed during the taxable year because of exemption, the department shall prepare a special assessment for the property and the county treasurer shall determine the amount of taxes that would have been due under subsection (2).

(5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the date or dates on which the taxes due are payable as provided in 15-16-102.

History: En. Sec. 1, Ch. 570, L. 1991; amd. Sec. 84, Ch. 27, Sp. L. November 1993; amd. Sec. 95, Ch. 584, L. 1999; amd. Sec. 5, Ch. 372, L. 2015.

Part 3
Reporting Delinquent Taxes

15-16-301. Delinquent list — list of taxes suspended or cancelled — real property. (1) On the third Monday of June of each year, the county treasurer shall make a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete list of all persons and property then owing taxes. The report may be submitted to the county clerk and recorder electronically.

(2) The county treasurer shall make a separate report to the county clerk and recorder showing the amount of taxes suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17, during the 1-year period immediately preceding the date of the report.

(3) The county clerk and recorder shall compare the reports with the books of the county treasurer and shall keep a record of the reports in the county clerk and recorder's office.

History: En. Sec. 101, p. 109, L. 1891; re-en. Sec. 3867, Pol. C. 1895; re-en. Sec. 2623, Rev. C. 1907; re-en. Sec. 2176, R.C.M. 1921; Cal. Pol. C. Sec. 3758; amd. Sec. 5, Ch. 96, L. 1923; re-en. Sec. 2176, R.C.M. 1935; R.C.M. 1947, 84-4111; amd. Sec. 37, Ch. 587, L. 1987; amd. Sec. 4, Ch. 631, L. 1989; amd. Sec. 1, Ch. 189, L. 2005; amd. Sec. 12, Ch. 145, L. 2021.

15-16-302. Tabulation and transmittal of property delinquent list. (1) The county treasurer shall, at the time specified in 15-16-301, deliver to the county clerk and recorder a complete delinquent list of all persons owing taxes and the property on which the taxes are owed.

(2) In the list, all matters and things contained in the property tax record relating to delinquent persons or property must be set down in numerical or alphabetical order.

(3) The county clerk and recorder shall carefully compare the list with the property tax record, and if satisfied that the list contains a full and true statement of all taxes due and unpaid, the county clerk and recorder shall total the amount of taxes remaining unpaid, credit the county treasurer with that amount, make a final settlement with the treasurer of all taxes charged against the treasurer on the property tax record, and require from the treasurer an immediate account for any existing deficiency.

History: (1)En. Sec. 102, p. 109, L. 1891; re-en. Sec. 3868, Pol. C. 1895; re-en. Sec. 2624, Rev. C. 1907; re-en. Sec. 2177, R.C.M. 1921; re-en. Sec. 2177, R.C.M. 1935; Sec. 84-4112, R.C.M. 1947; (2)En. Sec. 103, p. 109, L. 1891; re-en. Sec. 3869, Pol. C. 1895; re-en. Sec. 2625, Rev. C. 1907; re-en. Sec. 2178, R.C.M. 1921; Cal. Pol. C. Sec. 3760; re-en. Sec. 2178, R.C.M. 1935; Sec. 84-4113, R.C.M. 1947; (3)En. Sec. 104, p. 109, L. 1891; re-en. Sec. 3870, Pol. C. 1895; re-en. Sec. 2626, Rev. C. 1907; re-en. Sec. 2179, R.C.M. 1921; Cal. Pol. C. Sec. 3761; re-en. Sec. 2179, R.C.M. 1935; Sec. 84-4114, R.C.M. 1947; R.C.M. 1947, 84-4112, 84-4113, 84-4114; amd. Sec. 38, Ch. 587, L. 1987; amd. Sec. 85, Ch. 27, Sp. L. November 1993.

15-16-303. Treasurer charged with delinquent taxes. After settlement with the county treasurer as prescribed in 15-16-302, the county clerk and recorder shall charge the treasurer with the amount of taxes due on the delinquent tax list, minus taxes suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17, and within 3 days thereafter deliver the list, duly certified, to the county treasurer.

History: En. Sec. 105, p. 109, L. 1891; re-en. Sec. 3871, Pol. C. 1895; re-en. Sec. 2627, Rev. C. 1907; re-en. Sec. 2180, R.C.M. 1921; Cal. Pol. C. Sec. 3762; amd. Sec. 6, Ch. 96, L. 1923; re-en. Sec. 2180, R.C.M. 1935; R.C.M. 1947, 84-4115; amd. Sec. 39, Ch. 587, L. 1987; amd. Sec. 5, Ch. 631, L. 1989; amd. Sec. 13, Ch. 145, L. 2021.

15-16-304. Repealed. Sec. 2, Ch. 201, L. 1985.

History: En. Sec. 106, p. 109, L. 1891; re-en. Sec. 3872, Pol. C. 1895; re-en. Sec. 2628, Rev. C. 1907; re-en. Sec. 2181, R.C.M. 1921; Cal. Pol. C. Sec. 3763; amd. Sec. 7, Ch. 96, L. 1923; re-en. Sec. 2181, R.C.M. 1935; amd. Sec. 150, Ch. 516, L. 1973; R.C.M. 1947, 84-4116.

15-16-305. Repealed. Sec. 43, Ch. 67, L. 2017.

History: (1)En. Sec. 141, p. 116, L. 1891; re-en. Sec. 3908, Pol. C. 1895; re-en. Sec. 2664, Rev. C. 1907; re-en. Sec. 2217, R.C.M. 1921; re-en. Sec. 2217, R.C.M. 1935; Sec. 84-4172, R.C.M. 1947; (2)En. Sec. 142, p. 117, L. 1891; re-en. Sec. 3909, Pol. C. 1895; re-en. Sec. 2665, Rev. C. 1907; re-en. Sec. 2218, R.C.M. 1921; Cal. Pol. C. Sec. 3798; re-en. Sec. 2218, R.C.M. 1935; Sec. 84-4173, R.C.M. 1947; (3)En. Sec. 143, p. 117, L. 1891; re-en. Sec. 3910, Pol. C. 1895; re-en. Sec. 2666, Rev. C. 1907; re-en. Sec. 2219, R.C.M. 1921; Cal. Pol. C. Sec. 3799; re-en. Sec. 2219, R.C.M. 1935; Sec. 84-4174, R.C.M. 1947; (4)En. Sec. 144, p. 117, L. 1891; re-en. Sec. 3911, Pol. C. 1895; re-en. Sec. 2667, Rev. C. 1907; re-en. Sec. 2220, R.C.M. 1921; Cal. Pol. C. Sec. 3800; re-en. Sec. 2220, R.C.M. 1935; Sec. 84-4175, R.C.M. 1947; R.C.M. 1947, 84-4172, 84-4173, 84-4174, 84-4175; amd. Sec. 41, Ch. 370, L. 1987; amd. Sec. 40, Ch. 587, L. 1987; amd. Sec. 86, Ch. 27, Sp. L. November 1993.

Part 4
Liens and Limitations

Part Cross-References

Lien for delinquent mines net proceeds tax, 15-23-504, 15-23-508.
Lien for delinquent coal gross proceeds and severance taxes, 15-23-704.
Lien for delinquent metal mines gross proceeds tax, 15-23-806.
Paid tax liens more than 7 years old not allowed in consumer credit report, 31-3-112.
Inclusion of tax liens in consumer report for employment purposes, 31-3-126.
Tax lien on insured property destroyed by fire, 33-24-104.

Priority of tax lien to lien for condominium common expenses, 70-23-607.
Priority of lien for fire protection assessment, 76-13-211.
Lien of hail insurance tax levy, 80-2-225.
Priority of lien for reclamation of coal-mine land, 82-4-239.

15-16-401. Tax due as a judgment or lien. Unless suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17, every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes, unless suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17, and deliver the writ to the sheriff of any county in the state in which the property or some part of the property is located. Writs of execution may be issued at the same time to different counties. The sheriff shall proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment of the taxes.

History: En. Sec. 82, p. 104, L. 1891; re-en. Sec. 3827, Pol. C. 1895; re-en. Sec. 2600, Rev. C. 1907; re-en. Sec. 2152, R.C.M. 1921; Cal. Pol. C. Sec. 3716; re-en. Sec. 2152, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1963; R.C.M. 1947, 84-3807; amd. Sec. 41, Ch. 587, L. 1987; amd. Sec. 6, Ch. 631, L. 1989; amd. Sec. 2, Ch. 197, L. 1999; amd. Sec. 14, Ch. 145, L. 2021.

Cross-References
Execution of judgment, Title 25, ch. 13.
Ninety days on return of writ of execution, 25-13-404.

15-16-402. Tax on personal property lien on realty — separate assessment — filing of mortgage satisfaction. (1) The tax due on personal property is a prior lien upon the personal property. The lien has precedence over any other lien, claim, or demand upon the personal property. Except as provided in subsection (2), the tax on personal property is also a lien upon the real property of the owner of the personal property on and after January 1 of each year.

(2) The taxes on personal property based on a taxable value up to and including $10,000 are a first and prior lien upon the real property of the owner of the personal property. Taxes on personal property based on a taxable value in excess of $10,000 are a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon the real property appearing of record in the office of the clerk and recorder of the county where the real property is situated, at or before the time the personal property tax attached to the real property, has filed a notice as provided in subsection (3). If the notice is filed, the personal property taxes on the taxable value in excess of $10,000 are not a lien upon the owner's real property. The county treasurer shall, at the request of a mortgagee or lienholder, issue a statement of the personal property tax due on the taxable value up to and including $10,000. Personal property taxes on a taxable value up to $10,000 may be paid, redeemed from a tax lien sale as provided by law, or discharged separately from any personal property taxes in excess of that amount. Payment of the taxes on a taxable value up to $10,000, as provided in this subsection, discharge the tax lien upon the personal property of the owner to the extent of the payment in the order that the person paying the tax directs.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file each year in the office of the county treasurer of the county and with the department a notice giving:

(a) the name and address of the mortgagee and holder of the mortgage or lien;
(b) the name of the reputed owner of the land;
(c) the description of the land;
(d) the date of record and expiration of the mortgage or lien;
(e) the amount of the mortgage or lien; and
(f) a statement that the holder claims the benefit of the provisions of this section.

(4) The notice is ineffectual as to any taxes that are a lien upon real property prior to the filing of the notice as provided in subsection (3).

(5) A holder of a mortgage on real property upon which personal property taxes are a lien under this section, when the owner of the real property and personal property has failed to pay taxes due on the real property and personal property for 1 or more years, may file with the department a written request to have the personal property and real property of the owner separately assessed. The request must be made by certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the department of the request, the department shall make a separate assessment of real and personal property of the owner of the property, and the personal property taxes may not be a lien upon the mortgaged real property. The personal property taxes must be collected in the manner provided by law for other personal property.

(6) The holder of a mortgage or lien upon real property who files a certificate of satisfaction and the proof and acknowledgment of filing the certificate, as provided for in 71-1-211, shall file a copy of the certificate and the proof and acknowledgment with:

(a) the county treasurer if the holder has filed a notice under subsection (3); and

(b) the department if the holder has filed a written request under subsection (5).

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17.

History: En. Sec. 3828, Pol. C. 1895; re-en. Sec. 2601, Rev. C. 1907; re-en. Sec. 2153, R.C.M. 1921; Cal. Pol. C. Sec. 3717; amd. Sec. 1, Ch. 18, L. 1925; amd. Sec. 1, Ch. 113, L. 1927; amd. Sec. 1, Ch. 182, L. 1933; amd. Sec. 1, Ch. 119, L. 1935; re-en. Sec. 2153, R.C.M. 1935; amd. Sec. 1, Ch. 97, L. 1937; amd. Sec. 75, Ch. 405, L. 1973; amd. Sec. 12, Ch. 388, L. 1975; R.C.M. 1947, 84-3808; amd. Sec. 42, Ch. 587, L. 1987; amd. Sec. 1, Ch. 286, L. 1989; amd. Sec. 7, Ch. 631, L. 1989; amd. Sec. 1, Ch. 611, L. 1991; amd. Sec. 87, Ch. 27, Sp. L. November 1993; amd. Sec. 27, Ch. 2, L. 2009; amd. Sec. 15, Ch. 145, L. 2021.

15-16-403. Lien on real property and improvements. Every tax due upon real property is a lien against the property assessed, and every tax due upon improvements upon real estate assessed to other than the owner of the real estate is a lien upon the land and improvements, which several liens attach as of January 1 in each year. A person who issues a check, draft, converted check, electronic funds transfer, or order for the payment of real property taxes is subject to the liability provided in 27-1-717 if the instrument is dishonored or if the issuer stops payment with the intent to fraudulently defeat a possessory lien or defraud the payee.

History: En. Sec. 1714, 5th Div. Comp. Stat. 1887; amd. Sec. 83, p. 105, L. 1891; amd. Sec. 3829, Pol. C. 1895; re-en. Sec. 2602, Rev. C. 1907; re-en. Sec. 2154, R.C.M. 1921; Cal. Pol. C. Sec. 3718; re-en. Sec. 2154, R.C.M. 1935; amd. Sec. 13, Ch. 388, L. 1975; R.C.M. 1947, 84-3809; amd. Sec. 1, Ch. 392, L. 2005.

15-16-404. County lien on money of taxpayer. The county has a general lien, dependent on possession, upon any moneys in its possession belonging to any taxpayer for any amounts due the county for any delinquent personal property taxes that are not a lien on real estate of the taxpayer and that are not delinquent personal property taxes suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17. Due notice shall be given the lienholder, if known.

History: En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2684, Rev. C. 1907; re-en. Sec. 2239, R.C.M. 1921; Cal. Pol. C. Sec. 3821; amd. Sec. 2, Ch. 102, L. 1923; re-en. Sec. 2239, R.C.M. 1935; amd. Sec. 1, Ch. 107, L. 1939; amd. Sec. 2, Ch. 23, L. 1951; amd. Sec. 1, Ch. 166, L. 1955; amd. Sec. 1, Ch. 165, L. 1963; amd. Sec. 83, Ch. 405, L. 1973; amd. Sec. 1, Ch. 162; amd. Sec. 1, Ch. 475, L. 1975; amd. Sec. 1, Ch. 105, L. 1977; R.C.M. 1947, 84-4202(4); amd. Sec. 43, Ch. 587, L. 1987; amd. Sec. 8, Ch. 631, L. 1989; amd. Sec. 16, Ch. 145, L. 2021.

Cross-References

Applies to migratory personal property, 15-24-302.

Part 5
Collection by Suit

Part Cross-References

Collection of taxes on interests in United States lands, 15-24-1104.

15-16-501. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 4020, Pol. C. 1895; re-en. Sec. 2738, Rev. C. 1907; re-en. Sec. 2253, R.C.M. 1921; re-en. Sec. 2253, R.C.M. 1935; R.C.M. 1947, 84-4301.

15-16-502. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 4021, Pol. C. 1895; re-en. Sec. 2739, Rev. C. 1907; re-en. Sec. 2254, R.C.M. 1921; re-en. Sec. 2254, R.C.M. 1935; R.C.M. 1947, 84-4302.

15-16-503. Collection by suit of personal property taxes when taxpayer moves to another county. If any person moves from one county to another after being assessed on personal property, the treasurer of the county in which the person was assessed may sue for and collect the the taxes in the name of the county where the assessment was made.

History: En. Sec. 149, p. 118, L. 1891; re-en. Sec. 3917, Pol. C. 1895; re-en. Sec. 2673, Rev. C. 1907; re-en. Sec. 2226, R.C.M. 1921; Cal. Pol. C. Sec. 3808; re-en. Sec. 2226, R.C.M. 1935; R.C.M. 1947, 84-4181; amd. Sec. 154, Ch. 56, L. 2009.

15-16-504. Evidence at trial. On trial, a certified copy of the assessment signed by the county clerk and recorder of the county where the assessment was made, with the affidavit of the county treasurer that the tax has not been paid attached to the copy, describing the assessment as on the property tax record or delinquent list, is prima facie evidence that the taxes, plus interest, penalties, and costs, are due and entitles the county to judgment unless the defendant proves that the tax was paid.

History: En. Sec. 150, p. 118, L. 1891; re-en. Sec. 3918, Pol. C. 1895; re-en. Sec. 2674, Rev. C. 1907; re-en. Sec. 2227, R.C.M. 1921; Cal. Pol. C. Sec. 3809; re-en. Sec. 2227, R.C.M. 1935; R.C.M. 1947, 84-4182; amd. Sec. 44, Ch. 587, L. 1987; amd. Sec. 88, Ch. 27, Sp. L. November 1993.

15-16-505. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 3919, Pol. C. 1895; re-en. Sec. 2675, Rev. C. 1907; re-en. Sec. 2228, R.C.M. 1921; re-en. Sec. 2228, R.C.M. 1935; R.C.M. 1947, 84-4183.

15-16-506. Civil action to collect delinquent taxes. (1) A taxing jurisdiction may bring a civil action to collect the entire balance due of delinquent property taxes when the amount equals $250,000 or more owed to all taxing jurisdictions.

(2) A civil action may be brought as provided in this section for property to which a tax lien was attached pursuant to 15-17-125 and for which no assignment was made pursuant to 15-17-323 within 3 years of the attachment of the tax lien.

(3) The taxing jurisdiction shall bring the civil action in the district court of the county in which the property is located.

(4) Reasonable attorney fees must be awarded to the prevailing party in an action brought pursuant to this section.

(5) If the taxing jurisdiction prevails in the civil action provided for in this section, the taxpayer shall pay interest and penalties as provided in 15-16-101(1)(b). The interest and penalties must be distributed to the funds to which the taxes are distributed in the same proportion as the taxes are distributed.

History: En. Sec. 1, Ch. 269, L. 2017.

Part 6
Refunds

15-16-601. Repealed. Sec. 9, Ch. 539, L. 1993.

History: En. Sec. 145, p. 117, L. 1891; re-en. Sec. 3913, Pol. C. 1895; re-en. Sec. 2669, Rev. C. 1907; re-en. Sec. 2222, R.C.M. 1921; Cal. Pol. C. Sec. 3804; re-en. Sec. 2222, R.C.M. 1935; amd. Sec. 1, Ch. 201, L. 1939; amd. Sec. 1, Ch. 71, L. 1951; R.C.M. 1947, 84-4176; amd. Sec. 3, Ch. 541, L. 1979; amd. Sec. 3, Ch. 501, L. 1981; amd. Sec. 45, Ch. 587, L. 1987; amd. Sec. 2, Ch. 601, L. 1987; amd. Sec. 1, Ch. 560, L. 1991; amd. Sec. 35, Ch. 451, L. 1993.

15-16-602. Concurrent remedies. Sections 15-16-603 through 15-16-605 may not be considered or construed to be in conflict with the provisions of chapter 1, part 4. Sections 15-16-603 through 15-16-605 and the provisions of part 4 provide and afford concurrent remedies.

History: En. Sec. 2, Ch. 201, L. 1939; R.C.M. 1947, 84-4177; amd. Sec. 4, Ch. 539, L. 1993.

15-16-603. Refund of taxes — limitations on refunds. (1) Subject to the provisions in subsections (2) and (3), a board of county commissioners shall order a refund:

(a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;

(b) on a tax paid for which a refund is allowed under 15-16-612 or 15-16-613;

(c) on a tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements or for duplicate taxes paid as determined by the department of revenue;

(d) on net or gross proceeds tax, centrally assessed property tax, penalty, or interest when the department of revenue notifies the board of county commissioners of an assessment revision completed pursuant to 15-8-601;

(e) upon entry of a decision either by the district court or by the Montana tax appeal board under 15-2-306 that has not been appealed to a higher court; or

(f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax or fee proceeding under 15-15-201.

(2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

(3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a representative of the taxpayer files a written claim with the board of county commissioners within 10 years after the date when the second half of the taxes would have become delinquent if the taxes had not been paid, unless the refund is less than $10,000. There is a 15-year time limit for a written claim under this subsection (3)(a) if the amount of the refund is less than $10,000.

(b) The refund required under subsection (1)(c) must be made for 10 tax years or for the duration of the error, whichever period is shorter.

(c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department of revenue access to the taxpayer's property for the purposes of appraising the property.

History: **En. Sec. 1, Ch. 539, L. 1993; amd. Sec. 1, Ch. 440, L. 1995; amd. Sec. 5, Ch. 85, L. 1999; amd. Sec. 1, Ch. 46, L. 2013; amd. Sec. 37, Ch. 142, L. 2021; amd. Sec. 2, Ch. 755, L. 2023.**

15-16-604. Judicial review of tax refund denials. (1) A taxpayer aggrieved by a final decision of the board of county commissioners under 15-16-603 is entitled to a judicial review of the decision under this section.

(2) Proceedings for review of a decision of the board of county commissioners must be instituted by filing a petition for judicial review in the district court of the county within 30 days of receipt of the board's decision. A copy of the petition must be served on the board of county commissioners within 10 days of the filing of the petition.

(3) Review of a decision of the board of county commissioners must be conducted by the district court under the standards of review set out in 2-4-704. Additional evidence may be received by the district court under the standards set out in 2-4-703.

History: **En. Sec. 2, Ch. 539, L. 1993.**

15-16-605. Payment of refunds — exception. (1) In the order to refund a tax, penalty, interest, or cost under 15-16-603, the board of county commissioners shall determine the method of payment. The board may refund the amount due the taxpayer in installments over a period not to exceed 10 years. If the refund is made in installments, the taxpayer is entitled to interest on the unpaid balance at the interest rate received on public money invested by the county as provided in Title 7, chapter 6, part 2; Title 7, chapter 6, part 27; or 17-6-204.

(2) Except as provided in subsection (3), a refund of a tax, penalty, interest, or cost under 15-16-603 must be paid by the county treasurer out of the general fund of the county. The county treasurer shall transfer money from other funds of the county and of the state, school district, or other taxing jurisdictions that are proratably responsible for the refunds as may be necessary to reimburse the county general fund for the refund.

(3) If the board of county commissioners revises an assessment of property taxes that would result in a refund of $5 or less, then a refund is not owed to the taxpayer.

History: **En. Sec. 3, Ch. 539, L. 1993; amd. Sec. 4, Ch. 448, L. 1999.**

15-16-606 through 15-16-610 reserved.

15-16-611. Reduction of property tax for property destroyed by natural disaster — proration of taxes on replaced property. (1) The department shall, upon showing by a taxpayer that some or all of the improvements on the taxpayer's real property, that a trailer or mobile home, or that personal property taxed under Title 15, chapter 6, part 1, has been destroyed to such an extent that the improvements or personal property has been rendered unsuitable for its previous use by natural disaster, adjust the taxable value on the property, accounting for the destruction.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 or on personal property under 15-16-119 or 15-24-202 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the destruction of the property bears to 365.

(4) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(5) A taxpayer shall file a claim for the adjustment to taxable value provided by this section within 2 years of the date of the destruction of the property by the natural disaster.

(6) A taxpayer receiving a reduction in taxes on personal property under this section shall notify the department if the taxpayer replaces the destroyed personal property in the same tax year that the personal property was destroyed. The tax on the personal property replacing the destroyed personal property must be prorated according to the ratio that the number of days remaining in the year after the property was replaced bears to 365. A taxpayer who fails to notify the department within 30 days from the date of the replacement of the personal property is subject to the penalty prescribed in 15-1-303.

(7) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind. A fire is considered a natural disaster regardless of the origin of the fire. However, if the taxpayer is convicted of arson for burning the property, property taxes may not be adjusted. If the taxes had already been adjusted prior to the conviction, the original amount must be collected.

History: En. Sec. 1, Ch. 541, L. 1979; amd. Sec. 1, Ch. 263, L. 1981; amd. Sec. 1, Ch. 317, L. 1985; amd. Sec. 1, Ch. 717, L. 1991; amd. Sec. 13, Ch. 773, L. 1991; amd. Sec. 89, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 103, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 103, L. 2025. Amendment effective April 7, 2025.

15-16-612. Refund of tax paid. (1) If the property is destroyed after the property taxes have been paid for the current year, the taxpayer is entitled to a refund of the amount of tax paid in excess of the adjusted amount required by 15-16-611.

(2) A refund must be made as provided for in 15-16-603 through 15-16-605.

History: En. Sec. 2, Ch. 541, L. 1979; amd. Sec. 5, Ch. 539, L. 1993.

15-16-613. Refund of certain taxes paid on migratory property. (1) Subject to the provisions of 15-16-603 through 15-16-605 and upon proof that a property tax was paid in another state on the same property, a taxpayer whose property is assessed under 15-24-303 for a period longer than the actual number of months that the property is located in the state is entitled to a refund, as provided in this section.

(2) To obtain a refund, a taxpayer shall file an application for refund with the board of county commissioners in the county where the property was originally taxed. If a taxpayer receives an order by the board of county commissioners pursuant to 15-16-603, the county shall make the refund within the first quarter of the following fiscal year. The application must be made on a form provided by the department and may require information as prescribed by rule of the department.

(3) The amount of the refund is the difference between the amount of tax paid under 15-24-303 and the tax owed based upon the number of months the property was located in the state for the year. The refund may not exceed the amount of the tax paid.

(4) For the purposes of this section, "month" means any part of a calendar month.

History: En. Sec. 1, Ch. 601, L. 1987; amd. Sec. 1, Ch. 778, L. 1991; amd. Sec. 6, Ch. 539, L. 1993; amd. Sec. 1, Ch. 587, L. 1993; amd. Sec. 1, Ch. 59, L. 2001.

Part 7
Cancellations

Part Cross-References
Cancellation of taxes upon reversion to state, 77-2-314.

15-16-701. List of delinquent personal property taxes and real property taxes. (1) (a) The county treasurer shall prepare and submit to the board of county commissioners of the county, on or before the first Monday in June of each year, a list of personal property taxes that are not a lien on real estate and that have been delinquent for 5 years or more. The list must show the following:

(i) the name and address of the delinquent taxpayer;

(ii) the amount of the delinquent taxes, plus interest, penalties, and costs, if any; and

(iii) the date the taxes became delinquent.

(b) The list prepared under subsection (1)(a) may not include personal property taxes that remain uncollected because of bankruptcy or other litigation.

(2) (a) At the time the list is prepared as provided in subsection (1)(a), the county treasurer may prepare and submit to the board of county commissioners of the county a list of the real property taxes that have been delinquent for 5 years or more. To be included on the list, the county treasurer must have attached a tax lien to each property as provided in chapter 17 at least 3 years before preparation of the list. If prepared, the list must show the following:

(i) the name and address of the delinquent taxpayer;

(ii) the amount of the delinquent taxes, plus interest, penalties, and costs, if any;

(iii) the real property identification number;

(iv) the legal description of the property;

(v) the date the taxes became delinquent; and

(vi) the date the county treasurer attached a tax lien to the property.

(b) The list prepared under subsection (2)(a) may not include real property taxes that remain uncollected because of bankruptcy or litigation.

(3) The board of county commissioners may enter an order that permanently and prospectively cancels real property taxes on parcels identified by the county treasurer or the board as being solely used for road purposes and that otherwise meet the requirements of this section.

History: En. Sec. 1, Ch. 44, L. 1949; R.C.M. 1947, 84-4215; amd. Sec. 46, Ch. 587, L. 1987; amd. Sec. 1, Ch. 521, L. 1993; amd. Sec. 1, Ch. 316, L. 2007; amd. Sec. 3, Ch. 67, L. 2017.

15-16-702. Cancellation of taxes and obligations — filing of lists. (1) Within 30 days of receiving any list prepared under 15-16-701, the board of county commissioners shall examine the list and make any necessary corrections. After examining the list, the board shall make its order canceling all personal property taxes and contractual obligations contained in the list or lists, as corrected, that are required by this part to be canceled and, subject to subsection (2), canceling real property taxes.

(2) The board may cancel any or all delinquent real property taxes contained in the list prepared under 15-16-701 as corrected under subsection (1) of this section. If the board cancels any real property taxes under this subsection, the cancellation must be included in the order provided for in subsection (1).

(3) The order made under subsection (1) must be included in the board's minutes. The order and minutes may include only a reference for the proper identification of any list included in the order. When the order is made, the original or a copy of the list or lists, as corrected, must be filed with the records of the board. One legible copy of any list included in the order must be filed with the county clerk and recorder as a public record, and one legible copy of any list included in the order must be filed with the county treasurer as a permanent record of the treasurer's office.

History: En. Sec. 2, Ch. 44, L. 1949; amd. Sec. 11, Ch. 126, L. 1977; R.C.M. 1947, 84-4216; amd. Sec. 47, Ch. 587, L. 1987; amd. Sec. 2, Ch. 316, L. 2007.

15-16-703. Adjustment of accounts after cancellation. Upon notification of the order for cancellation, the county clerk and recorder and county treasurer shall adjust their taxes-receivable accounts to conform to the order of cancellation.

History: En. Sec. 3, Ch. 44, L. 1949; R.C.M. 1947, 84-4217; amd. Sec. 48, Ch. 587, L. 1987.

15-16-704. Certain unpaid taxes uncollectible — stricken from records. All unpaid taxes constituting a lien on real property in the state, levied and assessed against real property which have remained delinquent more than 10 years prior to July 1, 1976, whether the levy be by general or special assessment or by the state or any county, city, or political subdivision of the state, are hereby declared to be uncollectible and stricken from the respective tax records.

History: En. 84-4175.1 by Sec. 1, Ch. 286, L. 1975; R.C.M. 1947, 84-4175.1; amd. Sec. 49, Ch. 587, L. 1987.

Part 8
Suspensions

15-16-801. Payment of suspended delinquent property taxes. If collection of delinquent coal gross proceeds or property taxes has been suspended in accordance with 15-23-708 or Title 15, chapter 24, part 17, but the coal gross proceeds taxpayer or purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under 15-23-708 or Title 15, chapter 24, part 17, the governing body that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes.

History: En. Sec. 12, Ch. 631, L. 1989; amd. Sec. 17, Ch. 145, L. 2021.

15-16-802. Repealed. Sec. 315, Ch. 42, L. 1997.

History: En. Sec. 1, Ch. 699, L. 1989.

15-16-803. Repealed. Sec. 315, Ch. 42, L. 1997.

History: En. Sec. 2, Ch. 699, L. 1989.

CHAPTER 17
TAX LIENS

Part 1 — Attachment of Tax Lien

15-17-101. Repealed.
15-17-102. Repealed.
15-17-103 through 15-17-110 reserved.
15-17-111. Repealed.
15-17-112. Repealed.
15-17-113. Repealed.
15-17-114 through 15-17-120 reserved.
15-17-121. Definitions.
15-17-122. Notice of pending attachment of tax lien.
15-17-123. Copy of notice to be filed with county clerk — affidavit.
15-17-124. Irregular assessment.
15-17-125. Attachment of tax lien and preparation of tax lien certificate.
15-17-126 through 15-17-130 reserved.
15-17-131. Common undivided ownership interest — separate assessment — property tax payments.

Part 2 — Tax Lien Sale (Renumbered and Repealed)

Part 3 — Procedure After Attachment of Tax Lien

15-17-301. Repealed.
15-17-302. Repealed.
15-17-303. Repealed.
15-17-304. Repealed.
15-17-305. Repealed.
15-17-306 through 15-17-310 reserved.
15-17-311. Repealed.
15-17-312. Repealed.
15-17-313 through 15-17-315 reserved.
15-17-316. Definitions.
15-17-317. Municipality as assignee.
15-17-318. Assignment of municipality's interest.
15-17-319. Sale or lease and disposition of proceeds from lands acquired by municipality.
15-17-320. Taxes and subsequent installments of special assessments on land acquired by a municipality.
15-17-321. Repealed.
15-17-322. Disposition of money from tax lien sale.
15-17-323. Assignment of rights — form.

15-17-324. Assessment of property with tax lien attached.
15-17-325. Sale not voided by misnomer of ownership.
15-17-326. Voided tax lien — refund — limitation on action for royalty interest.

Parts 4 through 8 reserved

Part 9 — Sale of Personal Property

15-17-901. Repealed.
15-17-902. Repealed.
15-17-903. Repealed.
15-17-904 through 15-17-910 reserved.
15-17-911. Sale of personal property for delinquent taxes — fee — disposition of proceeds — unsold property.

Chapter Cross-References

Sale to include municipal taxes, 7-6-4414, 7-6-4423.

Suspension of property taxes for persons in military services — collection procedures abated, 10-1-606.

Statute of limitations on recovery of property seized by tax collector, 27-2-210.

Injunction to prevent sale or deed for nonpayment of taxes that would lessen value of insurer under Insurers Supervision, Rehabilitation, and Liquidation Act, 33-2-1309.

Tax sale for collection of unpaid irrigation district assessment, 85-7-2151.

Tax sale for collection of unpaid drainage district assessment, 85-8-603.

Part 1
Attachment of Tax Lien

15-17-101. Repealed. Sec. 59, Ch. 587, L. 1987.

History: (1)En. Sec. 107, p. 110, L. 1891; amd. Sec. 3873, Pol. C. 1895; amd. Sec. 1, p. 142, L. 1901; re-en. Sec. 2629, Rev. C. 1907; re-en. Sec. 2182, R.C.M. 1921; Cal. Pol. C. Sec. 3764; amd. Sec. 8, Ch. 96, L. 1923; re-en. Sec. 2182, R.C.M. 1935; amd. Sec. 1, Ch. 26, L. 1939; Sec. 84-4117, R.C.M. 1947; (2)En. Sec. 109, p. 110, L. 1891; re-en. Sec. 3875, Pol. C. 1895; re-en. Sec. 2631, Rev. C. 1907; re-en. Sec. 2184, R.C.M. 1921; Cal. Pol. C. Sec. 3766; re-en. Sec. 2184, R.C.M. 1935; Sec. 84-4118, R.C.M. 1947; (3)En. Sec. 110, p. 110, L. 1891; re-en. Sec. 3876, Pol. C. 1895; re-en. Sec. 2632, Rev. C. 1907; re-en. Sec. 2185, R.C.M. 1921; Cal. Pol. C. Sec. 3768; re-en. Sec. 2185, R.C.M. 1935; Sec. 84-4119, R.C.M. 1947; (4)En. Sec. 111, p. 110, L. 1891; re-en. Sec. 3877, Pol. C. 1895; re-en. Sec. 2633, Rev. C. 1907; re-en. Sec. 2186, R.C.M. 1921; Cal. Pol. C. Sec. 3768; re-en. Sec. 2186, R.C.M. 1935; Sec. 84-4120, R.C.M. 1947; R.C.M. 1947, 84-4117, 84-4118, 84-4119, 84-4120; amd. Sec. 1, Ch. 122, L. 1985.

15-17-102. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 112, p. 110, L. 1891; re-en. Sec. 3878, Pol. C. 1895; re-en. Sec. 2634, Rev. C. 1907; re-en. Sec. 2187, R.C.M. 1921; Cal. Pol. C. Sec. 3769; re-en. Sec. 2187, R.C.M. 1935; R.C.M. 1947, 84-4121.

15-17-103 through 15-17-110 reserved.

15-17-111. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 147, p. 118, L. 1891; re-en. Sec. 3915, Pol. C. 1895; re-en. Sec. 2671, Rev. C. 1907; re-en. Sec. 2224, R.C.M. 1921; Cal. Pol. C. Sec. 3806; re-en. Sec. 2224, R.C.M. 1935; R.C.M. 1947, 84-4179.

15-17-112. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 151, p. 118, L. 1891; re-en. Sec. 3920, Pol. C. 1895; re-en. Sec. 2676, Rev. C. 1907; re-en. Sec. 2229, R.C.M. 1921; re-en. Sec. 2229, R.C.M. 1935; R.C.M. 1947, 84-4184.

15-17-113. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 152, p. 119, L. 1891; re-en. Sec. 3921, Pol. C. 1895; re-en. Sec. 2677, Rev. C. 1907; re-en. Sec. 2230, R.C.M. 1921; re-en. Sec. 2230, R.C.M. 1935; R.C.M. 1947, 84-4185; amd. Sec. 4, Ch. 17, L. 1985.

15-17-114 through 15-17-120 reserved.

15-17-121. Definitions. Except as otherwise specifically provided, when terms mentioned in Title 15, chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

(1) "Assignee" means a person, other than the person to whom the property is assessed, who pays the delinquent taxes, including penalties, interest, and costs, and receives a tax lien certificate representing a lien on the property and an assignment certificate.

(2) "Assignment certificate" means the document described in 15-17-323.

(3) (a) "Cost" means the cost incurred by the county as a result of a taxpayer's failure to pay taxes when due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the administrative cost of:

(i) preparing the list of delinquent taxes;

(ii) preparing the notice of pending attachment of a tax lien;
(iii) assigning the county's interest in a tax lien to a third party;
(iv) identifying interested persons entitled to notice of the pending issuance of a tax deed;
(v) notifying interested persons;
(vi) sale or resale;
(vii) issuing the tax deed; and
(viii) any other administrative task associated with accounting for or collecting delinquent taxes.

(b) The term includes costs that are required by law and incurred by an assignee. The county treasurer may require the assignee to provide receipts or may allow the assignee to provide a notarized affidavit of costs to the county treasurer upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax deed may be issued as required by 15-18-212, 15-18-216, and 15-18-219. A county treasurer may at any time require an assignee who provided an affidavit of costs to submit the receipted costs upon which the affidavit was based.

(c) The term does not include interest for payments for the following:
(i) postage for certified mailings and certified mailings with return receipt requested;
(ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance or auction of a tax deed;
(iii) publishing costs for required publications; and
(iv) filing costs for proof of notice.

(4) "County" means any county government and includes those classified as consolidated governments.

(5) "Domestic entity" means an entity that:
(a) is organized under or created under federal law or state law; or
(b) (i) is organized under or created under the law of another place subject to the jurisdiction of the United States; and
(ii) has its principal place of business within the United States.

(6) (a) "Dwelling" means a house or other structure intended for human habitation, including buildings attached to the dwelling.

(b) The term does not include a dwelling that is not on a permanent foundation and that is classified by the department of revenue as personal property.

(7) "Foreign entity" means:
(a) a government of a foreign country;
(b) a political party of a foreign country;
(c) an entity located outside of the United States unless that entity:
(i) is organized under or created under federal law, state law, or the law of another place subject to the jurisdiction of the United States; and
(ii) has its principal place of business within the United States; or
(d) an entity that:
(i) is organized under the laws of a foreign country; or
(ii) has its principal place of business in a foreign country.

(8) "Property tax lien" or "tax lien" means a lien attached by the county for nonpayment of property taxes, including penalties, interest, and costs.

(9) "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property assessments, fees related to property, and assessments for special improvement districts and rural special improvement districts.

(10) "Tax lien certificate" means the document described in 15-17-125.

(11) "Tax lien sale" means, with respect to personal property, the offering for sale by the county treasurer of personal property on which the taxes are delinquent or other personal property on which the delinquent taxes are a lien.

History: En. Sec. 1, Ch. 587, L. 1987; amd. Sec. 2, Ch. 704, L. 1989; amd. Sec. 1, Ch. 241, L. 2003; amd. Sec. 4, Ch. 110, L. 2007; amd. Sec. 1, Ch. 323, L. 2009; amd. Sec. 4, Ch. 67, L. 2017; amd. Sec. 4, Ch. 317, L. 2019; amd. Sec. 1, Ch. 210, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 210, L. 2025. Amendment effective October 1, 2025.

15-17-122. Notice of pending attachment of tax lien. (1) The county treasurer shall publish or post a notice of a pending attachment of a tax lien. The notice must include:

(a) the specific date on which the county will attach a property tax lien to property on which the taxes are delinquent; and

(b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the specified date, a tax lien will be attached and may be assigned to a third party.

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list must include:

(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be given as provided in 7-1-2121. The notice must be first published or posted on or before the last Monday in June.

(4) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17.

History: **En. Sec. 2, Ch. 587, L. 1987; amd. Sec. 9, Ch. 631, L. 1989; amd. Sec. 5, Ch. 110, L. 2007; amd. Sec. 5, Ch. 67, L. 2017; amd. Sec. 12, Ch. 372, L. 2017; amd. Sec. 18, Ch. 145, L. 2021.**

Cross-References

Delinquent city or town taxes to be included, 7-6-4414, 7-6-4423.

15-17-123. Copy of notice to be filed with county clerk — affidavit. (1) Following publication or posting of the notice required in 15-17-122, the county treasurer shall file a copy of the notice with the county clerk. The copy must be accompanied by an affidavit signed by the county treasurer stating:

(a) the name of the newspaper and its address of publication; and

(b) the dates the notice was published.

(2) If no qualified newspaper is published in the county or an adjacent county, the affidavit must list the locations and date of the posting required by 15-17-122.

(3) The affidavit filed under subsection (1) or (2) is prima facie evidence of all the facts stated therein.

History: **En. Sec. 3, Ch. 587, L. 1987; amd. Sec. 6, Ch. 67, L. 2017.**

15-17-124. Irregular assessment. If the county treasurer discovers, prior to attachment of the tax lien, that property on which the taxes are delinquent has been irregularly assessed, the county treasurer may not attach a tax lien. The taxes on the property must be listed on the property tax record as uncollected for the year in which they were due, and they must be assessed and collected during the succeeding year as taxes are regularly assessed and collected.

History: **En. Sec. 4, Ch. 587, L. 1987; amd. Sec. 90, Ch. 27, Sp. L. November 1993; amd. Sec. 6, Ch. 110, L. 2007; amd. Sec. 7, Ch. 67, L. 2017.**

15-17-125. Attachment of tax lien and preparation of tax lien certificate. (1) (a) The county treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are delinquent and for which proper notification was given as provided in 15-17-122 and subsection (4) of this section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless the tax lien is assigned pursuant to 15-17-323.

(b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for which proper notice was not given.

(2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:

(a) the date on which the property taxes became delinquent;

(b) the date on which a property tax lien was attached to the property;

(c) the name and address of record of the person to whom the taxes were assessed;

(d) a description of the property on which the taxes were assessed;

(e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;

(f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance of a tax deed for the property;

(g) a statement specifying the date on which the county or an assignee will be entitled to a tax deed; and

(h) an identification number corresponding to the tax lien certificate.

(3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the person may contact the county treasurer for further information on property tax liens.

(4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending attachment of a tax lien to the person to whom the property was assessed. The notice must include the information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance programs under Title 15, chapter 6, part 3, the homestead reduced tax rate provided for in 15-6-405, the rental property reduced tax rate provided for in 15-6-411, the state property tax assistance provided for in 15-6-701, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341. The notice must have been mailed at least 2 weeks prior to the date on which the county treasurer attaches the tax lien.

(5) The county treasurer shall file the tax lien certificate with the county clerk and recorder.

History: En. Sec. 6, Ch. 587, L. 1987; amd. Sec. 2, Ch. 472, L. 2001; amd. Sec. 9, Ch. 110, L. 2007; amd. Sec. 2, Ch. 323, L. 2009; amd. Sec. 9, Ch. 67, L. 2017; Sec. 15-17-212, MCA 2015; redes. 15-17-125 by Sec. 44, Ch. 67, L. 2017; amd. Sec. 21, Ch. 767, L. 2025; amd. Sec. 12, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 21, Ch. 767, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 12, Ch. 775, L. 2025. Amendment effective June 19, 2025.

The amendment to this section made by sec. 20, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

15-17-126 through 15-17-130 reserved.

15-17-131. Common undivided ownership interest — separate assessment — property tax payments. (1) Except as provided in subsection (2), payment of all property taxes on a parcel by any co-owner is considered payment by all owners, whether or not the property is assessed and taxed separately to co-owners or to a single owner. Any payment by a co-owner in excess of the amount assessed to the co-owner must be the total amount due on the parcel or a partial payment amounting to a year of deficiency, as provided in 15-16-102(5)(a). The nonpayment of taxes by a co-owner who is separately assessed and taxed subjects only the interest of the nonpaying co-owner to attachment of a tax lien.

(2) (a) A co-owner may receive a tax lien on property in which the co-owner has an undivided interest if:

(i) the co-owner pays the proportional amount of taxes on that co-owner's interest and on another co-owner's interest;

(ii) the paying co-owner has notified the nonpaying co-owner of the property tax payments and annually demands reimbursement in writing by certified mail, return receipt requested, addressed to the nonpaying co-owner's last-known mailing address; and

(iii) the paying co-owner has paid the property taxes for 3 consecutive years without reimbursement.

(b) Upon proof that a co-owner has complied with the provisions of this subsection (2), the paying co-owner is considered the assignee of a tax lien on the ownership interest of the nonpaying co-owner and the county treasurer shall prepare a tax lien certificate with the paying

co-owner as the assignee. The tax lien certificate must conform to the provisions of 15-17-125, except the certificate need not contain the information required in 15-17-125(2)(a) and (2)(b). The treasurer shall comply with the provisions of 15-17-125(3) regarding the tax lien certificate.

(c) For the purposes of this subsection (2), if there are more than two co-owners, single and multiple paying co-owners can receive a tax lien on the undivided interests of single and multiple nonpaying co-owners.

History: En. Sec. 1, Ch. 315, L. 2003; amd. Sec. 7, Ch. 110, L. 2007; amd. Sec. 8, Ch. 67, L. 2017.

Part 2
Tax Lien Sale
(Renumbered and Repealed)

15-17-201. Repealed. Sec. 59, Ch. 587, L. 1987.

History: (1)En. Sec. 1732, 5th Div. Comp. Stat. 1887; amd. Sec. 36, p. 96, Ex. L. 1887; amd. Sec. 113, p. 111, L. 1891; amd. Sec. 3880, Pol. C. 1895; re-en. Sec. 2636, Rev. C. 1907; re-en. Sec. 2189, R.C.M. 1921; re-en. Sec. 2189, R.C.M. 1935; Sec. 84-4122, R.C.M. 1947; (2)En. Sec. 114, p. 111, L. 1891; re-en. Sec. 3881, Pol. C. 1895; re-en. Sec. 2637, Rev. C. 1907; re-en. Sec. 2190, R.C.M. 1921; re-en. Sec. 2190, R.C.M. 1935; Sec. 84-4123, R.C.M. 1947; R.C.M. 1947, 84-4122, 84-4123.

15-17-202. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 115, p. 111, L. 1891; re-en. Sec. 3882, Pol. C. 1895; re-en. Sec. 2638, Rev. C. 1907; re-en. Sec. 2191, R.C.M. 1921; amd. Sec. 1, Ch. 46, L. 1923; amd. Sec. 1, Ch. 31, L. 1929; re-en. Sec. 2191, R.C.M. 1935; amd. Sec. 1, Ch. 170, L. 1947; R.C.M. 1947, 84-4124(part).

15-17-203. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 117, p. 111, L. 1891; re-en. Sec. 3884, Pol. C. 1895; re-en. Sec. 2640, Rev. C. 1907; re-en. Sec. 2193, R.C.M. 1921; re-en. Sec. 2193, R.C.M. 1935; R.C.M. 1947, 84-4126.

15-17-204. Repealed. Sec. 59, Ch. 587, L. 1987.

History: (1)En. Sec. 118, p. 111, L. 1891; re-en. Sec. 3885, Pol. C. 1895; re-en. Sec. 2641, Rev. C. 1907; re-en. Sec. 2194, R.C.M. 1921; Cal. Pol. C. Sec. 3776; re-en. Sec. 2194, R.C.M. 1935; Sec. 84-4127, R.C.M. 1947; (2)En. Sec. 119, p. 112, L. 1891; re-en. Sec. 3886, Pol. C. 1895; re-en. Sec. 2642, Rev. C. 1907; re-en. Sec. 2195, R.C.M. 1921; re-en. Sec. 2195, R.C.M. 1935; Sec. 84-4128, R.C.M. 1947; (3)En. Sec. 125, p. 113, L. 1891; re-en. Sec. 3892, Pol. C. 1895; re-en. Sec. 2648, Rev. C. 1907; re-en. Sec. 2204, R.C.M. 1921; re-en. Sec. 2204, R.C.M. 1935; Sec. 84-4135, R.C.M. 1947; R.C.M. 1947, 84-4127, 84-4128, 84-4135.

15-17-205. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 120, p. 112, L. 1891; re-en. Sec. 3887, Pol. C. 1895; re-en. Sec. 2643, Rev. C. 1907; re-en. Sec. 2196, R.C.M. 1921; re-en. Sec. 2196, R.C.M. 1935; amd. Sec. 1, Ch. 191, L. 1939; R.C.M. 1947, 84-4129.

15-17-206. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 121, p. 112, L. 1891; re-en. Sec. 3888, Pol. C. 1895; re-en. Sec. 2644, Rev. C. 1907; re-en. Sec. 2197, R.C.M. 1921; re-en. Sec. 2197. R.C.M. 1935; amd. Sec. 1, Ch. 8, L. 1967; R.C.M. 1947, 84-4130.

15-17-207. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 115, p. 111, L. 1891; re-en. Sec. 3882, Pol. C. 1895; re-en. Sec. 2638, Rev. C. 1907; re-en. Sec. 2191, R.C.M. 1921; amd. Sec. 1, Ch. 46, L. 1923; amd. Sec. 1, Ch. 31, L. 1929; re-en. Sec. 2191, R.C.M. 1935; amd. Sec. 1, Ch. 170, L. 1947; R.C.M. 1947, 84-4124(part); amd. Sec. 5, Ch. 17, L. 1985.

15-17-208. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 115, p. 111, L. 1891; re-en. Sec. 3882, Pol. C. 1895; re-en. Sec. 2638, Rev. C. 1907; re-en. Sec. 2191, R.C.M. 1921; amd. Sec. 1, Ch. 46, L. 1923; amd. Sec. 1, Ch. 31, L. 1929; re-en. Sec. 2191, R.C.M. 1935; amd. Sec. 1, Ch. 170, L. 1947; R.C.M. 1947, 84-4124(part).

15-17-209 and 15-17-210 reserved.

15-17-211. Repealed. Sec. 43, Ch. 67, L. 2017.

History: En. Sec. 5, Ch. 587, L. 1987; amd. Sec. 8, Ch. 110, L. 2007.

15-17-212. Renumbered 15-17-125. Sec. 44, Ch. 67, L. 2017.

15-17-213. Repealed. Sec. 43, Ch. 67, L. 2017.

History: En. Sec. 7, Ch. 587, L. 1987; amd. Sec. 10, Ch. 110, L. 2007.

15-17-214. Repealed. Sec. 43, Ch. 67, L. 2017.

History: En. Sec. 8, Ch. 587, L. 1987; amd. Sec. 11, Ch. 110, L. 2007.

Part 3
Procedure After Attachment of Tax Lien

15-17-301. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 116, p. 111, L. 1891; re-en. Sec. 3883, Pol. C. 1895; re-en. Sec. 2639, Rev. C. 1907; re-en. Sec. 2192, R.C.M. 1921; re-en. Sec. 2192, R.C.M. 1935; R.C.M. 1947, 84-4125.

15-17-302. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 2, Ch. 65, L. 1933; re-en. Sec. 2008.2, R.C.M. 1935; R.C.M. 1947, 84-4140.

15-17-303. Repealed. Sec. 59, Ch. 587, L. 1987.

History: (1), (2)En. Sec. 1, Ch. 151, L. 1917; re-en. Sec. 2207, R.C.M. 1921; re-en. Sec. 2207, R.C.M. 1935; amd. Sec. 1, Ch. 101, L. 1937; amd. Sec. 1, Ch. 24, L. 1939; amd. Sec. 1, Ch. 11, L. 1947; Sec. 84-4138, R.C.M. 1947; (3)En. Sec. 2, Ch. 151, L. 1917; re-en. Sec. 2208, R.C.M. 1921; re-en. Sec. 2208, R.C.M. 1935; Sec. 84-4139, R.C.M. 1947; (4)En. Sec. 3, Ch. 65, L. 1933; re-en. Sec. 2208.3, R.C.M. 1935; Sec. 84-4141, R.C.M. 1947; R.C.M. 1947, 84-4138, 84-4139, 84-4141; amd. Sec. 10, Ch. 581, L. 1979; amd. Sec. 3, Ch. 576, L. 1981; amd. Sec. 3, Ch. 6, Sp. L. 1981.

15-17-304. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 153, p. 119, L. 1891; re-en. Sec. 3922, Pol. C. 1895; re-en. Sec. 2678, Rev. C. 1907; re-en. Sec. 2231, R.C.M. 1921; Cal. Pol. C. Sec. 3813; re-en. Sec. 2231, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1937; R.C.M. 1947, 84-4186.

15-17-305. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 154, p. 119, L. 1891; re-en. Sec. 3923, Pol. C. 1895; re-en. Sec. 2679, Rev. C. 1907; re-en. Sec. 2232, R.C.M. 1921; Cal. Pol. C. Sec. 3814; re-en. Sec. 2232, R.C.M. 1935; R.C.M. 1947, 84-4187; amd. Sec. 9, Ch. 79, L. 1983.

15-17-306 through 15-17-310 reserved.

15-17-311. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 148, p. 118, L. 1891; re-en. Sec. 3916, Pol. C. 1895; re-en. Sec. 2672, Rev. C. 1907; re-en. Sec. 2225, R.C.M. 1921; Cal. Pol. C. Sec. 3807; re-en. Sec. 2225, R.C.M. 1935; R.C.M. 1947, 84-4180.

15-17-312. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1, Ch. 131, L. 1927; re-en. Sec. 2197.1, R.C.M. 1935; R.C.M. 1947, 84-4131; amd. Sec. 2, Ch. 458, L. 1985.

15-17-313 through 15-17-315 reserved.

15-17-316. Definitions. Unless the context indicates otherwise, as used in 15-17-316 through 15-17-320, the following definitions apply:

(1) "Improvement fund" means, with respect to any special assessments, the fund of the municipality into which collections of the special assessments have been pledged or appropriated.

(2) "Municipality" means, with respect to special assessments levied under Title 7, chapter 12, parts 41 through 46, the city or town that levied such assessments.

History: En. Sec. 8, Ch. 617, L. 1987.

15-17-317. Municipality as assignee. (1) At the request of a municipality and if the tax lien has not been assigned pursuant to 15-17-323, the county treasurer shall assign the tax lien on a property with delinquent special assessments to the municipality upon payment of costs and delinquent taxes, excluding delinquent assessments. The municipality is not required to pay penalties or interest.

(2) The county treasurer:

(a) shall deliver to the treasurer of the municipality a copy of the tax lien certificate, which must be filed by the treasurer of the municipality;

(b) may not charge a fee for an assignment certificate when a tax lien is assigned to a municipality; and

(c) shall make an entry "sold to the municipality" on the property tax record and be credited with the delinquent taxes.

(3) Property sold to the municipality must be held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable.

History: En. Sec. 9, Ch. 617, L. 1987; amd. Sec. 8, Ch. 83, L. 1989; amd. Sec. 91, Ch. 27, Sp. L. November 1993; amd. Sec. 12, Ch. 110, L. 2007; amd. Sec. 10, Ch. 67, L. 2017.

15-17-318. Assignment of municipality's interest. (1) At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays:

(a) the purchase price paid by the municipality;

(b) the delinquent assessments;

(c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the municipality shall execute to the person an assignment certificate, which must be in the form provided in 15-17-323 for the assignment of the interests of the county. If the assignment certificate becomes lost or accidentally destroyed by the assignee, the treasurer of the municipality shall issue a duplicate assignment certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to the treasurer, including an affidavit of the assignee, that the assignment certificate has been lost or destroyed.

(3) An assignment by a municipality under this section discharges the trust created under 15-17-317. The municipality may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent assessments and interest accrued on the assessments.

History: En. Sec. 10, Ch. 617, L. 1987; amd. Sec. 9, Ch. 83, L. 1989; amd. Sec. 155, Ch. 56, L. 2009; amd. Sec. 11, Ch. 67, L. 2017.

15-17-319. Sale or lease and disposition of proceeds from lands acquired by municipality. A municipality may sell, donate, or lease property it acquires under 15-17-317 in the same manner as a county may sell, donate, or lease tax-deed property under Title 7, chapter 8, part 23. All money received by the municipality from the sale or lease of the land, after payment of the cost of sale, not to exceed $25, must be paid into the improvement fund to the extent of the delinquent assessments, interest, and penalties. The surplus, if any, must be paid into any revolving fund that secures payment of special assessments or, if there are none, to the general fund of the municipality.

History: En. Sec. 11, Ch. 617, L. 1987; amd. Sec. 2, Ch. 369, L. 1993.

15-17-320. Taxes and subsequent installments of special assessments on land acquired by a municipality. For property that is acquired by a municipality as provided in 15-17-317, subsequent installments of the special assessment or assessments, if any, and other special assessments not then delinquent must be levied, and taxes for the following years must be assessed in the same manner as if the property had not been so acquired. If the special assessments or installments thereof or taxes are not paid when due, the property is again subject to the attachment of a tax lien in the manner provided by law and the levies of special assessments, assessments of taxes, and the attachment of a tax lien for delinquent special assessments and taxes must continue until the time when the property has been redeemed.

History: En. Sec. 12, Ch. 617, L. 1987; amd. Sec. 12, Ch. 67, L. 2017.

15-17-321. Repealed. Sec. 43, Ch. 67, L. 2017.

History: En. Sec. 9, Ch. 587, L. 1987; amd. Sec. 13, Ch. 110, L. 2007.

15-17-322. Disposition of money from tax lien sale. All money received from purchasers for delinquent taxes, penalties, interest, and costs must be deposited in the county treasury. The money received, other than costs, must be credited to the various funds to which the taxes would have originally been distributed and in the same proportion as the taxes would have originally been distributed. Any money received for costs or any money remaining after crediting the separate funds must be deposited to the credit of the county general fund.

History: En. Sec. 10, Ch. 587, L. 1987.

Cross-References

Crediting of proceeds to irrigation district, 85-7-2152.

15-17-323. Assignment of rights — form. (1) (a) A tax lien certificate or other official record in which the county is listed as the possessor of the tax lien must be assigned by the county treasurer to any person who, after providing proof of mail notice to the person to whom

the property was assessed, as required by subsection (5), pays to the county the amount of the delinquent taxes, including penalties, interest, and costs, accruing from the date of delinquency.

(b) The county treasurer shall develop a policy for assigning a tax lien when more than one person seeks the assignment and provides proof of mail notice to the person to whom the property was assessed. The county treasurer shall seek input from the county clerk and recorder and the county attorney in developing the policy.

(2) (a) The assignment made under subsection (1) must be in the form of an assignment certificate in the following form:

I, ..., the treasurer of ..... County, state of Montana, hereby certify that tax lien ..... (insert tax lien certificate number) was attached on ..... (date), for the purpose of liquidating delinquent assessments on the following property ..... (insert property description). Because delinquent taxes, penalties, interest, and costs remained unpaid on the date of attachment of the tax lien, the county is the possessor of the tax lien. As of the date of this assignment certificate, the delinquency, including penalties, interest, and costs amounting to $ ....., has not been liquidated by the person to whom the property was assessed, nor has the delinquency been otherwise redeemed.

Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights, title, and interest of the county of ....., state of Montana, acquired in the property by virtue of attachment of a tax lien to ..... (name and address of assignee) to proceed to obtain a tax deed to the property or receive payment in case of redemption as provided by law.

Witness my hand and official seal of office this ..... day of ....., 20...

..... County Treasurer

..... County

(b) A copy of an assignment certificate must be mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the person may contact the county treasurer for further information on lien assignments, property tax liens, and property tax assistance programs.

(3) An assignment made by an assignee of the county or by a previous assignee may be made for any consideration whatsoever. An assignment so made is legal and binding only upon filing with the county treasurer a statement that the assignee's interest in the property has been assigned. The county treasurer shall file a copy of the statement with the clerk and recorder. The statement must contain:

(a) the name and address of the new assignee;

(b) the name and address of the original assignee;

(c) the name and address of each previous assignee, if any;

(d) a description of the property upon which the property tax lien was issued, which must contain the same information as contained in the tax lien certificate or assignment certificate, as appropriate;

(e) the signature of the party making the assignment;

(f) the signature of the new assignee; and

(g) the date on which the statement was signed.

(4) If the assignment certificate described in subsection (3) is lost or destroyed, the county treasurer shall, upon adequate proof and signed affidavit by the assignee that loss or destruction has occurred, issue a duplicate assignment certificate to the assignee.

(5) Prior to making a payment under subsection (1), a person shall send notice of the proposed payment, by certified mail, to the person to whom the property was assessed. The notice must have been mailed at least 2 weeks prior to the date of the payment but not earlier than August 15 and not more than 60 days prior to purchasing the assignment. The person making the payment shall provide proof of the mailing.

(6) The notice must be in the following form:

NOTICE OF PENDING ASSIGNMENT
(Pursuant to 15-17-125 and 15-17-323, MCA)

THIS NOTICE IS VERY IMPORTANT with regard to the tax lien, which ..... County holds on the following property. If the delinquent taxes are not paid by ....., an assignment of the

tax lien will be purchased. THIS COULD RESULT IN THE LOSS OF YOUR PROPERTY LISTED BELOW.
Please contact the ..... County Treasurer at (406) ..... with questions or to pay the delinquent taxes.
(Required Information) :
Owner of record .....
Mailing address .....
Legal description .....
Parcel number .....
Date of notice .....
.....
Signature of interested assignee
.....
Printed name of interested assignee
.....
Printed name of company (if applicable)

History: En. Sec. 11, Ch. 587, L. 1987; amd. Sec. 27, Ch. 51, L. 1999; amd. Sec. 3, Ch. 472, L. 2001; amd. Sec. 14, Ch. 110, L. 2007; amd. Sec. 28, Ch. 2, L. 2009; amd. Sec. 13, Ch. 67, L. 2017; amd. Sec. 1, Ch. 70, L. 2019.

Cross-References

Purchase by irrigation district, 85-7-2158.

15-17-324. Assessment of property with tax lien attached. (1) The assessment of property on which the county has attached a tax lien or for which the county is the possessor of the tax lien continues in the same manner as other property is assessed.

(2) If any assessed taxes are not paid when due, they are delinquent.

History: En. Sec. 12, Ch. 587, L. 1987; amd. Sec. 15, Ch. 110, L. 2007; amd. Sec. 14, Ch. 67, L. 2017.

Cross-References

Redemption proceeds distribution, 15-18-114.

15-17-325. Sale not voided by misnomer of ownership. When a tax lien assignment is taken, as provided in 15-17-323, or when the county is the possessor of the tax lien and the taxes were properly assessed on the property of a particular person, no misnomer of ownership or other mistake relating to ownership affects the tax lien or renders it void or voidable.

History: En. Sec. 13, Ch. 587, L. 1987; amd. Sec. 16, Ch. 110, L. 2007; amd. Sec. 15, Ch. 67, L. 2017.

15-17-326. Voided tax lien — refund — limitation on action for royalty interest. (1) If a tax lien attached under the provisions of this chapter is declared void by a court for irregularity in the assessment, levy, or assignment or if a tax lien is assigned in error, the money paid by the assignee must be refunded, with interest at the rate payable upon delinquencies, as provided in 15-16-102, from the date of the payment, to the assignee, together with any penalty paid by the assignee.

(2) Following the payment of a refund as provided in subsection (1), the county is the possessor of the tax lien upon the property for the legal taxes on the property accruing from the date of delinquency, plus penalties and interest as provided in 15-16-102. Any money refunded that was received, as provided in 15-17-323, and distributed by the treasurer to the state or a city, town, or district must be charged to the state, city, town, or district, respectively, by the treasurer and deducted from the next money due the state, city, town, or district on account of taxes paid or collected. An assignment made by a city or town that by resolution or ordinance collects its own taxes instead of having the taxes collected by the county treasurer must be reimbursed in similar manner and in similar circumstances out of the city or town treasury upon order of the mayor or, when applicable, the city manager or presiding officer of the city commission. The city or town clerk or city or town treasurer, as appropriate, shall make proper charges and deductions against the respective funds of the city or town upon the next collection of taxes by the city or town.

(3) The assignee has a lien upon the property for the amount of taxes, penalties, interest, and costs paid, with the interest to be at the rate specified for delinquencies in 15-16-102. If the assignee is in possession of the property and resides on the property, the assignee may not be ejected from the property until the assignee's lien has been liquidated.

(4) All affirmative defenses at law or equity, including but not limited to estoppel, laches, and adverse possession, may apply in a suit brought to challenge the title to a royalty interest in land claimed to have been acquired by a county by tax deed.

(5) An action against a county to recover a royalty interest in land acquired by the county by tax deed must be brought within the period prescribed in 27-2-210.

History: En. Sec. 14, Ch. 587, L. 1987; amd. Sec. 17, Ch. 110, L. 2007; amd. Sec. 16, Ch. 67, L. 2017.

Parts 4 through 8 reserved

Part 9
Sale of Personal Property

Part Cross-References

Applicable to collection of liens for county licenses, 7-21-2104.

Injunction to prevent sale or deed for nonpayment of taxes that would lessen value of insurer under Insurers Supervision, Rehabilitation, and Liquidation Act, 33-2-1309.

15-17-901. Repealed. Sec. 59, Ch. 587, L. 1987.

History: (1)En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2684, Rev. C. 1907; re-en. Sec. 2239, R.C.M. 1921; Cal. Pol. C. Sec. 3821; amd. Sec. 2, Ch. 102, L. 1923; re-en. Sec. 2239, R.C.M. 1935; amd. Sec. 1, Ch. 107, L. 1939; amd. Sec. 2, Ch. 23, L. 1951; amd. Sec. 1, Ch. 166, L. 1955; amd. Sec. 1, Ch. 165, L. 1963; amd. Sec. 83, Ch. 405, L. 1973; amd. Sec. 1, Ch. 162; amd. Sec. 1, Ch. 475, L. 1975; amd. Sec. 1, Ch. 105, L. 1977; Sec. 84-4202, R.C.M. 1947; (2)En. Sec. 3942, Pol. C. 1895; re-en. Sec. 2685, Rev. C. 1907; re-en. Sec. 2240, R.C.M. 1921; Cal. Pol. C. Sec. 3822; re-en. Sec. 2240, R.C.M. 1935; Sec. 84-4203, R.C.M. 1947; (3)En. Sec. 135, p. 116, L. 1891; re-en. Sec. 3902, Pol. C. 1895; re-en. Sec. 2658, Rev. C. 1907; re-en. Sec. 2241, R.C.M. 1921; re-en. Sec. 2241, R.C.M. 1935; Sec. 84-4204, R.C.M. 1947; (4)En. Sec. 137, p. 116, L. 1891; re-en. Sec. 3904, Pol. C. 1895; re-en. Sec. 2660, Rev. C. 1907; re-en. Sec. 2243, R.C.M. 1921; re-en. Sec. 2243, R.C.M. 1935; Sec. 84-4205, R.C.M. 1947; (5)En. Sec. 138, p. 116, L. 1891; re-en. Sec. 3905, Pol. C. 1895; re-en. Sec. 2661, Rev. C. 1907; re-en. Sec. 2244, R.C.M. 1921; re-en. Sec. 2244, R.C.M. 1935; Sec. 84-4206, R.C.M. 1947; R.C.M. 1947, 84-4202(3), 84-4203, 84-4204, 84-4205, 84-4206.

15-17-902. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 139, p. 116, L. 1891; re-en. Sec. 3906, Pol. C. 1895; re-en. Sec. 2662, Rev. C. 1907; re-en. Sec. 2245, R.C.M. 1921; re-en. Sec. 2245, R.C.M. 1935; R.C.M. 1947, 84-4207.

15-17-903. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 140, p. 116, L. 1891; amd. Sec. 3907, Pol. C. 1895; re-en. Sec. 2663, Rev. C. 1907; re-en. Sec. 2246, R.C.M. 1921; re-en. Sec. 2246, R.C.M. 1935; R.C.M. 1947, 84-4208.

15-17-904 through 15-17-910 reserved.

15-17-911. Sale of personal property for delinquent taxes — fee — disposition of proceeds — unsold property. (1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-119 and this section apply to a seizure and sale under subsection (1).

(3) (a) A sale under subsection (1) must be:

(i) conducted at public auction;

(ii) conducted under the provisions of 25-13-701(1)(b); and

(iii) noticed as a treasurer's sale of personal property seized for taxes.

(b) The return on the levy and sale must be signed by the sheriff or deputy sheriff as ex officio deputy county treasurer.

(4) (a) The county treasurer shall charge $25 or a fee set by the county commissioners, plus the cost, as defined in 15-17-121, of the collection of delinquent personal property taxes. The cost must be assessed against the delinquent taxpayer and is in addition to any sheriff's fees, mileage, and costs charged under subsection (4)(b).

(b) The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) After sale of the property, the proceeds of the sale must be used first to reimburse the county for all costs and charges incurred in seizing the property and conducting the sale. Any excess, up to the total amount of the taxes owed, must be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any remaining excess, up to the amount of the penalty and interest owed, must then be distributed proportionally to the fund that would have received the penalty and interest if they had been paid in full.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it.

(7) Any property seized for the purpose of liquidating a delinquency by a tax lien sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or cancelled under the provisions of 15-23-708 or Title 15, chapter 24, part 17.

(9) The county commission, in its discretion, may cancel any personal property taxes, including penalty, interest, costs, and charges that remain unsatisfied after the property upon which the taxes were assessed had been seized and sold. If the taxes are cancelled, one copy of the order of cancellation must be filed with the county clerk and recorder and one copy with the county treasurer.

History: En. Sec. 15, Ch. 587, L. 1987; amd. Sec. 10, Ch. 631, L. 1989; amd. Sec. 1, Ch. 36, L. 1993; amd. Sec. 92, Ch. 27, Sp. L. November 1993; amd. Sec. 3, Ch. 197, L. 1999; amd. Sec. 29, Ch. 2, L. 2009; amd. Sec. 19, Ch. 145, L. 2021.

CHAPTER 18
OWNERSHIP INTERESTS IN LAND SOLD FOR TAXES

Part 1 — Redemption

15-18-101. Repealed.
15-18-102. Repealed.
15-18-103. Repealed.
15-18-104. Repealed.
15-18-105. Repealed.
15-18-106. Repealed.
15-18-107. Repealed.
15-18-108. Repealed.
15-18-109 and 15-18-110 reserved.
15-18-111. Time for redemption — interested party.
15-18-112. Redemption from property tax lien — lien on interest in property for taxes paid.
15-18-113. Treasurer to file redemptions.
15-18-114. Distribution of redemption proceeds.

Part 2 — Issuing a Tax Deed

15-18-201. Repealed.
15-18-202. Repealed.
15-18-203. Repealed.
15-18-204. Repealed.
15-18-205. Repealed.
15-18-206 through 15-18-210 reserved.
15-18-211. Tax deed — fee.
15-18-212. Notice — proof of notice — penalty for failure to notify.
15-18-213. Form of tax deed — prima facie evidence.
15-18-214. Effect of deed.
15-18-215. Form of notice that tax deed may issue.
15-18-216. Form of proof of notice.
15-18-217. Form of cancellation.
15-18-218. Charge not allowed for filings or recordings made by county treasurer.
15-18-219. Application for tax deed for residential property — fee — notice.

15-18-220. Sale at public auction — notice of auction — cancellation of assignment for unsuccessful auction — foreign entity prohibition.
15-18-221. Distribution of tax deed auction proceeds.
15-18-222 through 15-18-224 reserved.
15-18-225. Form of cancellation — unsuccessful auction.

Part 3 — Action for Tax Deed (Repealed)

Part 4 — Quiet Title

15-18-401. Repealed.
15-18-402. Repealed.
15-18-403. Repealed.
15-18-404. Repealed.
15-18-405 through 15-18-410 reserved.
15-18-411. Action to quiet title to tax deed — notice.
15-18-412. Procedure in tax deed quiet title action.
15-18-413. Title conveyed by deed — defects.

Chapter Cross-References
Interest of purchaser at tax sale when land sold was being purchased from state, 77-2-315.

Part 1
Redemption

Part Cross-References
Redemption of property sold for delinquent irrigation district assessment, 85-7-2151.
Redemption of property sold for delinquent drainage district assessment, 85-8-603.

15-18-101. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 122, p. 113, L. 1891; amd. Sec. 3889, Pol. C. 1895; re-en. Sec. 2645, Rev. C. 1907; re-en. Sec. 2201, R.C.M. 1921; Cal. Pol. C. Sec. 3780; amd. Sec. 1, Ch. 125, L. 1933; re-en. Sec. 2201, R.C.M. 1935; amd. Sec. 1, Ch. 39, L. 1941; R.C.M. 1947, 84-4132.

15-18-102. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1, Ch. 98, L. 1913; re-en. Sec. 2210, R.C.M. 1921; re-en. Sec. 2210, R.C.M. 1935; amd. Sec. 1, Ch. 25, L. 1939; R.C.M. 1947, 84-4154; amd. Sec. 1, Ch. 313, L. 1985.

15-18-103. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1, Ch. 91, L. 1915; amd. Sec. 1, Ch. 73, L. 1919; re-en. Sec. 2211, R.C.M. 1921; amd. Sec. 1, Ch. 48, L. 1923; re-en. Sec. 2211, R.C.M. 1935; amd. Sec. 1, Ch. 17, L. 1941; amd. Sec. 16, Ch. 52, L. 1977; R.C.M. 1947, 84-4155.

15-18-104. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 155, p. 120, L. 1891; re-en. Sec. 3924, Pol. C. 1895; re-en. Sec. 2680, Rev. C. 1907; re-en. Sec. 2233, R.C.M. 1921; Cal. Pol. C. Sec. 3815; re-en. Sec. 2233, R.C.M. 1935; R.C.M. 1947, 84-4188.

15-18-105. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 123, p. 113, L. 1891; re-en. Sec. 3890, Pol. C. 1895; re-en. Sec. 2646, Rev. C. 1907; re-en. Sec. 2202, R.C.M. 1921; Cal. Pol. C. Sec. 3781; re-en. Sec. 2202, R.C.M. 1935; R.C.M. 1947, 84-4133.

15-18-106. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 124, p. 113, L. 1891; re-en. Sec. 3891, Pol. C. 1895; re-en. Sec. 2647, Rev. C. 1907; re-en. Sec. 2203, R.C.M. 1921; re-en. Sec. 2203, R.C.M. 1935; R.C.M. 1947, 84-4134.

15-18-107. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 126, p. 113, L. 1891; re-en. Sec. 3893, Pol. C. 1895; re-en. Sec. 2649, Rev. C. 1907; re-en. Sec. 2205, R.C.M. 1921; re-en. Sec. 2205, R.C.M. 1935; R.C.M. 1947, 84-4136.

15-18-108. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 156, p. 120, L. 1891; re-en. Sec. 3925, Pol. C. 1895; re-en. Sec. 2681, Rev. C. 1907; re-en. Sec. 2234, R.C.M. 1921; Cal. Pol. C. Sec. 3816; amd. Sec. 1, Ch. 164, L. 1929; re-en. Sec. 2234, R.C.M. 1935; R.C.M. 1947, 84-4189.

15-18-109 and 15-18-110 reserved.

15-18-111. Time for redemption — interested party. (1) Except as provided in subsection (2), redemption of a property tax lien may be made by the owner, the holder of an unrecorded or improperly recorded interest, the occupant of the property, or any interested party by the first working day in August, 3 years after attachment of the tax lien.

(2) For property subdivided as a residential or commercial lot upon which special improvement district assessments or rural special improvement district assessments are delinquent and upon which no habitable dwelling or commercial structure is situated, redemption of a property tax lien may be made by the owner, the holder of an unrecorded or improperly recorded interest, or any interested party by the first working day in August, 2 years after attachment of the tax lien.

(3) For the purposes of this chapter, an "interested party" includes a mortgagee, vendor of a contract for deed or the vendor's successor in interest, lienholder, or other person who has a properly recorded interest in the property. A person who has an interest in property on which there is a property tax lien but which interest is not properly recorded is not an interested party for the purposes of this chapter.

History: En. Sec. 16, Ch. 587, L. 1987; amd. Sec. 14, Ch. 617, L. 1987; amd. Sec. 1, Ch. 564, L. 1989; amd. Sec. 1, Ch. 248, L. 1995; amd. Sec. 18, Ch. 110, L. 2007; amd. Sec. 17, Ch. 67, L. 2017.

Cross-References

Suspension of property taxes for persons in military service, 10-1-606.
Notice of application for tax deed, 15-18-212.
Period of redemption for property sold for delinquent irrigation district assessment, 85-7-2163.

15-18-112. Redemption from property tax lien — lien on interest in property for taxes paid. (1) (a) Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the assignee may pay the subsequent taxes assessed against the property, once delinquent, on or after June 1 and prior to July 31 if the taxes have not been paid by the property owner.

(b) If the property qualifies for the property tax assistance program provided for in 15-6-305 and the taxes have not been paid by the property owner, the subsequent taxes may be paid after the time period provided for in 15-16-102(4)(b) and prior to July 31.

(2) Upon redemption of the property tax lien, the redemptioner shall pay, in addition to the amount of the property tax lien, including penalties, interest, and costs, the subsequent taxes assessed, with interest and penalty at the rate established for delinquent taxes in 15-16-102.

(3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned by the redemptioner.

(4) The property tax lien may also be redeemed for a particular tax year as provided in 15-16-102(5) if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) the tax deed has not been issued pursuant to 15-18-211 or 15-18-220.

History: En. Sec. 17, Ch. 587, L. 1987; amd. Sec. 4, Ch. 704, L. 1989; amd. Sec. 4, Ch. 444, L. 2001; amd. Sec. 18, Ch. 67, L. 2017; amd. Sec. 5, Ch. 317, L. 2019; amd. Sec. 1, Ch. 17, L. 2021.

Cross-References

Payment of delinquent irrigation district assessments credited against redemption, 85-7-2136.
Payment of delinquent drainage district assessments credited against redemption, 85-8-601.

15-18-113. Treasurer to file redemptions. (1) The county treasurer shall execute a certificate of redemption to be filed with the county clerk and recorder upon:

(a) payment to the county treasurer of all delinquent taxes, including penalties, interest, and costs, by the person to whom taxes were assessed or the person's agent; and

(b) distribution of the redemption proceeds pursuant to 15-18-114.

(2) The form of the certificate of redemption must be made as follows:

CERTIFICATE OF REDEMPTION

I, ..., the treasurer of ..... County, certify the following:

1. For tax years ..... (years), the taxes were delinquent on the following real property: ..... (description of the property).

2. The tax lien was attached to the property on.....(date of attachment of the tax lien). Tax Lien Certificate No. ..... and Assignment Certificate No. ..... (if applicable).

3. The tax lien was redeemed on ..... (date of redemption) by the payment of:

Taxes.....

Penalty.....

Interest.....
Cost.....
Total.....
Receipt Number.....
4. The redemption was made by ..... (name of redemptioner).
Date: .....

.....
Signature

History: En. Sec. 18, Ch. 587, L. 1987; amd. Sec. 1, Ch. 446, L. 1999; amd. Sec. 19, Ch. 110, L. 2007; amd. Sec. 19, Ch. 67, L. 2017.

15-18-114. Distribution of redemption proceeds. (1) When the county is in possession of a tax lien that is redeemed, the money received from the redemption, including penalties and interest but not costs, must be distributed to the credit of the various funds to which the taxes would have originally been distributed and in the same proportion as the taxes would have originally been distributed.

(2) (a) When an assignee is in possession of a tax lien that is redeemed, the county treasurer shall distribute to the person listed as the assignee on the assignment certificate provided for in 15-17-323, and in the record kept by the county treasurer the amount the assignee paid the county for the property tax lien plus any subsequent amount paid pursuant to 15-18-112 plus interest, as specified in 15-16-102, from the date of payment until the date of redemption. Any money remaining after distributing redemption proceeds to the assignee must be distributed pursuant to subsection (1).

(b) (i) The distribution must be made by the county treasurer to the assignee at the address listed on the assignment certificate within 30 days of redemption.

(ii) If the money distributed to the assignee is returned unopened to the county treasurer, the treasurer shall give notice as provided in 7-1-2121 stating that:

(A) the county treasurer is in possession of money belonging to the assignee for the redemption of the delinquency on the property named in the tax lien certificate;

(B) the money must be held by the county treasurer for a period of 1 year from the date of publication; and

(C) if the money is not claimed by the assignee within the 1-year period, the assignee relinquishes all claim to the money and the money must be credited to the county general fund.

(3) The notice required in subsection (2)(b)(ii) must be made at least annually, but the 1-year period described in subsection (2)(b)(ii)(B) may not begin until the date notice is given.

(4) The county treasurer shall keep an accurate account of all money paid in redemption, including a separate accounting of other delinquent taxes, interest, penalties, and costs, and when and to whom distributed.

History: En. Sec. 19, Ch. 587, L. 1987; amd. Sec. 3, Ch. 704, L. 1989; amd. Sec. 2, Ch. 97, L. 1993; amd. Sec. 20, Ch. 110, L. 2007; amd. Sec. 20, Ch. 67, L. 2017.

Cross-References

Distribution of redemption money for municipal taxes, 7-6-4414.
Definition of school district, 20-15-403.
Distribution of redemption money to irrigation district, 85-7-2154.

Part 2
Issuing a Tax Deed

Part Cross-References

Injunction to prevent sale or deed for nonpayment of taxes that would lessen value of insurer under Insurers Supervision, Rehabilitation, and Liquidation Act, 33-2-1309.
Issuance of certificate of purchase when tax deed issued for land being purchased from state, 77-2-315.
Issuance of tax deed for delinquent irrigation district assessment, 85-7-2159, 85-7-2163.

15-18-201. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 127, p. 113, L. 1891; re-en. Sec. 3894, Pol. C. 1895; re-en. Sec. 2650, Rev. C. 1907; re-en. Sec. 2206, R.C.M. 1921; Cal. Pol. C. Sec. 3785; re-en. Sec. 2206, R.C.M. 1935; R.C.M. 1947, 84-4137.

15-18-202. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 128, p. 114, L. 1891; amd. Sec. 3895, Pol. C. 1895; amd. Sec. 1, Ch. 79, L. 1905; re-en. Sec. 2651, Rev. C. 1907; amd. Sec. 1, Ch. 33, L. 1917; amd. Sec. 1, Ch. 87, L. 1921; re-en. Sec. 2209, R.C.M. 1921; amd. Sec. 1, Ch. 156, L. 1929; amd. Sec. 1, Ch. 190, L. 1933; re-en. Sec. 2209, R.C.M. 1935; R.C.M. 1947, 84-4151; amd. Sec. 14, Ch. 526, L. 1983.

15-18-203. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1, Ch. 92, L. 1927; amd. Sec. 1, Ch. 49, L. 1933; re-en. Sec. 2209.1, R.C.M. 1935; R.C.M. 1947, 84-4152.

15-18-204. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 129, p. 114, L. 1891; re-en. Sec. 3896, Pol. C. 1895; re-en. Sec. 2652, Rev. C. 1907; re-en. Sec. 2212, R.C.M. 1921; re-en. Sec. 2212, R.C.M. 1935; amd. Sec. 1, Ch. 17, L. 1947, 84-4156.

15-18-205. Repealed. Sec. 59, Ch. 587, L. 1987.

History: En. Sec. 1748, 5th Div. Comp. Stat. 1887; amd. Sec. 130, p. 115, L. 1891; re-en. Sec. 3897, Pol. C. 1895; re-en. Sec. 2653, Rev. C. 1907; amd. Sec. 1, Ch. 103, L. 1919; re-en. Sec. 2213, R.C.M. 1921; Cal. Pol. C. Sec. 3786; re-en. Sec. 2213, R.C.M. 1935; R.C.M. 1947, 84-4157.

15-18-206 through 15-18-210 reserved.

15-18-211. Tax deed — fee. (1) Except as provided in 15-18-219 and subsection (3) of this section, if the property tax lien is not redeemed in the time allowed under 15-18-111, the county treasurer shall grant the assignee a tax deed for the property. The deed must contain the same information as is required in a tax lien certificate under 15-17-125 and an assignment certificate under 15-17-323, except the description of the property must be the full legal description.

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall charge the assignee $25 for making the deed plus all actual costs incurred by the county in giving the notice or assisting an assignee in giving the notice required in 15-18-212. The fee must be deposited in the county general fund.

(b) If the tax deed is issued to the county, no fee may be charged for making the deed.

(c) Reasonable costs incurred by the county in searching the county records to identify persons entitled to notice are considered part of the actual costs of the notice provided in subsection (2)(a).

(3) If no assignment has been made, the county treasurer may not issue a tax deed to the county unless the board of county commissioners, by resolution, directs the county treasurer to issue a tax deed.

(4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title 7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee for recording the deed.

History: En. Sec. 20, Ch. 587, L. 1987; amd. Sec. 21, Ch. 110, L. 2007; amd. Sec. 21, Ch. 67, L. 2017; amd. Sec. 6, Ch. 317, L. 2019.

15-18-212. Notice — proof of notice — penalty for failure to notify. (1) Between May 1 and May 30 of the year in which the redemption period expires, a notice must be given as follows:

(a) for each property for which the county attached a tax lien and has not assigned the tax lien, the county treasurer shall notify the parties as required in subsection (4) that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

(b) for each property other than property provided for in 15-18-219(1)(b) for which the county attached a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.

(2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an assignment has not been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in subsection (1)(a). The notification required under this subsection (2)(a) must be made not less than 60 days or more than 120 days prior to the date on which the county treasurer will issue the tax deed.

(b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after giving the notice required by subsection (1)(a), additional notice need not be given.

(3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (1)(b) between January 1 and January 31 of the year in which the redemption period

expires. The notice of obligation must be sent by certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

(b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and be made by certified mail, return receipt requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(b) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(5) The person required to give notice shall, within the period described in subsection (1), give notice as provided in 7-1-2121 and in the form required by 15-18-215.

(6) The amount of interest and costs continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

(8) Prior to issuance of a tax deed for residential property with an owner-occupied dwelling and after all other notice requirements have been met, the sheriff, the county treasurer, or a designee of the sheriff or county treasurer shall make reasonable attempts to personally deliver a copy of the notice that was sent by certified mail to the owner-occupant of the property for the purpose of discussing the consequences of a failure to respond. If personal delivery attempts are unsuccessful, the sheriff, county treasurer, or designee shall attempt all reasonable means of informing the owner-occupant of the consequences of a failure to respond, including but not limited to a phone call to the owner-occupant or a relative of the owner-occupant.

(9) A county or any officer of a county may not be held liable for any error of notification.

History: En. Sec. 21, Ch. 587, L. 1987; amd. Sec. 10, Ch. 83, L. 1989; amd. Sec. 8, Ch. 704, L. 1989; amd. Sec. 1, Ch. 181, L. 1991; amd. Sec. 3, Ch. 97, L. 1993; amd. Sec. 2, Ch. 446, L. 1999; amd. Sec. 1, Ch. 7, L. 2007; amd. Sec. 22, Ch. 110, L. 2007; amd. Sec. 1, Ch. 411, L. 2009; amd. Sec. 1, Ch. 14, L. 2017; amd. Sec. 22, Ch. 67, L. 2017; amd. Sec. 7, Ch. 317, L. 2019; amd. Sec. 2, Ch. 17, L. 2021.

Cross-References

Fee for tax deed, 7-6-2131.

Time for redemption, 15-18-111.

County authorized to acquire property by taxation, 70-1-204.

15-18-213. Form of tax deed — prima facie evidence. (1) The form of a tax deed issued under the provisions of this chapter, executed by a county treasurer, must be made as follows:

This deed is made by ..... (name of county treasurer), county treasurer of the county of ..... (name of county), in the state of Montana, to ..... (name of assignee or assignee's agent, high bidder or high bidder's agent, or county that is the possessor of the tax lien), as provided by the laws of the state of Montana:

Whereas, there was assessed for ..... (year) the following real property ..... (description of the property); and

Whereas, the taxes for ..... (year) levied against the property amounted to $ .....; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes was attached by ..... (name of county) and was assigned to ..... (if applicable, name of assignee) on ..... (date, including year) for the sum of $ ....., which amount included delinquent taxes in the amount of $ ....., penalties in the amount of $ ....., interest in the amount of $ ....., and other costs in the amount of $ .....; and

Whereas, a tax lien certificate was issued and filed as required by law; and

Whereas, notice was given to required parties in accordance with 15-18-212 or 15-18-219 that the issuance or auction of a tax deed was pending; and

Whereas, the property tax lien has not been redeemed by ..... (name of former owner) or any other person entitled to redeem it.

Now, therefore, I, ... (treasurer's name), county treasurer of the county of ....., in the state of Montana, in consideration of the sum of $ ..... paid, hereby grant to ..... (name of assignee or assignee's agent, high bidder or high bidder's agent, or county that is the possessor of the tax lien) all the property situated in ..... County, state of Montana, described in this document.

Witness my hand on this date ..... (date, including year).

.....County Treasurer

.....County

(2) A tax deed executed in the form provided in subsection (1) is prima facie evidence that:

(a) the property was assessed as required by law;

(b) the taxes were levied in accordance with law;

(c) the taxes were not paid when due;

(d) notice of the pending attachment of a tax lien was given and the tax lien was attached at the proper time and place as provided by law;

(e) the property was not redeemed, and proper notice of a pending tax deed issuance or auction was made as required by law;

(f) the person who executed the deed was legally authorized to do so; and

(g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged to the person liable to pay the personal property tax.

History: En. Sec. 22, Ch. 587, L. 1987; amd. Sec. 4, Ch. 97, L. 1993; amd. Sec. 23, Ch. 110, L. 2007; amd. Sec. 2, Ch. 411, L. 2009; amd. Sec. 23, Ch. 67, L. 2017; amd. Sec. 8, Ch. 317, L. 2019.

15-18-214. Effect of deed. (1) Subject to 15-18-411 and 15-18-413, a deed issued under this chapter conveys to the grantee absolute title to the property described in the deed as of the date of the tax deed, except:

(a) when the claim is payable after the execution of the deed and:

(i) a subsequent property tax lien is attached; or

(ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;

(b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or

(c) when the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date on which a tax deed was issued.

History: En. Sec. 23, Ch. 587, L. 1987; amd. Sec. 5, Ch. 704, L. 1989; amd. Sec. 24, Ch. 110, L. 2007; amd. Sec. 24, Ch. 67, L. 2017; amd. Sec. 9, Ch. 317, L. 2019.

15-18-215. Form of notice that tax deed may issue. (1) Section 15-18-219 requires that notice be given to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed. The notice must be made as follows for property provided for in 15-18-219(1)(b):

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO: .....

(Name) (Address, when unknown, so state)

Pursuant to section 15-18-219, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

.....

.....

2. The property taxes became delinquent on.....
3. The property tax lien was attached on.....
4. The lien was subsequently assigned to.....(if applicable).
5. As of the date of this notice, the amount of tax due is:

TAXES: .....
PENALTY: .....
INTEREST: .....
COST: .....
TOTAL: .....

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5, plus additional interest and costs, must be paid by....., which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to....., which is the date the redemption period expires, a tax deed auction will be held within 60 days of the tax deed application date.

8. Any surplus funds resulting from the auction will be distributed to the legal titleholder of record.

9. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is:.....County Treasurer,.....(Address),.....(Telephone).

FURTHER NOTICE FOR THOSE PERSONS LISTED ABOVE WHOSE ADDRESSES ARE UNKNOWN:

1. The address of the interested party is unknown.
2. The published notice meets the legal requirements for notice of a pending tax deed auction.
3. The interested party's rights in the property may be in jeopardy.

DATED at.....this.....(Date).

.....
Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

(2) Section 15-18-212 requires that notice be given to all persons considered interested parties of property that may be lost to a tax deed. The notice must be made as follows for all property other than property provided for in 15-18-219(1)(b):

NOTICE THAT A TAX DEED MAY BE ISSUED
IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:..... .....
(Name) (Address, when unknown, so state)

Pursuant to section 15-18-212, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:
2. The property taxes became delinquent on.....
3. The property tax lien was attached on.....
4. The lien was subsequently assigned to.....(if applicable).
5. As of the date of this notice, the amount of tax due is:

TAXES:.....
PENALTY:.....
INTEREST:.....
COST:.....
TOTAL:.....

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5, plus additional interest and costs, must be paid by.....,which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to....., which is the date the redemption period expires, a tax deed may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires.

8. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is:.....County Treasurer,.....(Address),.....(Telephone).

FURTHER NOTICE FOR THOSE PERSONS LISTED ABOVE WHOSE ADDRESSES ARE UNKNOWN:

1. The address of the interested party is unknown.

2. The published notice meets the legal requirements for notice of a pending tax deed issuance.

3. The interested party's rights in the property may be in jeopardy.

DATED at.....this.....(Date).

.....
Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

History: En. Sec. 5, Ch. 97, L. 1993; amd. Sec. 25, Ch. 110, L. 2007; amd. Sec. 25, Ch. 67, L. 2017; amd. Sec. 10, Ch. 317, L. 2019; amd. Sec. 3, Ch. 17, L. 2021.

15-18-216. Form of proof of notice. Sections 15-18-212 and 15-18-219 require that proof of notice must be filed with the county clerk. The proof of notice must be made as follows:

PROOF OF NOTICE

I,.....(Name and Address), acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A "Notice That a Tax Deed May Be Issued" was mailed to the owners, current occupant, and parties, as required by 15-18-212 or 15-18-219, MCA. A copy of each notice is attached or is on file in the office of the county clerk.

2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.

3. Notice was given by publishing in the newspaper as required by 7-1-2121, which is....., on..... and..... or posting in the three public places designated by the governing body, which are....., ..., and..... Proof of publication is attached.

DATED: .....

.....
(Signature)

State of.....
County of.....
The record was signed before me on (date) by (name(s) of individual(s))

.....
(Signature of notarial officer)

(Official stamp)

.....
Title of officer (if not shown in stamp)

History: En. Sec. 6, Ch. 97, L. 1993; amd. Sec. 3, Ch. 411, L. 2009; amd. Sec. 26, Ch. 67, L. 2017; amd. Sec. 11, Ch. 317, L. 2019; amd. Sec. 4, Ch. 17, L. 2021.

15-18-217. Form of cancellation. The notice of cancellation of an assignment required by 15-18-212 and 15-18-219 must be made as follows:

I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of..... (address), purchased a tax lien assignment..... (assignment certificate no.) on the following property .....(full legal description) owned by.....(name of owner of record) on..... (date).

I further certify that pursuant to 15-18-212(3)(a) and 15-18-219(6)(a), notice was given to..... (name of assignee or assignee's agent) of the notification obligation and that the tax lien will be cancelled if the assignee does not comply with provisions of 15-18-212 and 15-18-219.

I further certify that the treasurer of..... County has no record of notice by the owner of the tax lien in accordance with 15-18-212(7) or 15-18-219(6).

Therefore, noncompliance by the assignee has caused the tax lien to be cancelled this..... (date).

.....
Name of County Treasurer

History: En. Sec. 3, Ch. 446, L. 1999; amd. Sec. 2, Ch. 7, L. 2007; amd. Sec. 26, Ch. 110, L. 2007; amd. Sec. 27, Ch. 67, L. 2017; amd. Sec. 12, Ch. 317, L. 2019; amd. Sec. 5, Ch. 17, L. 2021.

15-18-218. Charge not allowed for filings or recordings made by county treasurer. The county clerk and recorder may not impose a charge for tax lien certificates, assignment certificates, certificates of redemption, or any other form that the county treasurer is required to file or record with the county clerk and recorder.

History: En. Sec. 4, Ch. 446, L. 1999; amd. Sec. 27, Ch. 110, L. 2007; amd. Sec. 28, Ch. 67, L. 2017.

15-18-219. Application for tax deed for residential property — fee — notice. (1) (a) If a property tax lien attached to the property provided for in subsection (1)(b) is not redeemed in the time allowed under 15-18-111, the assignee may file an application after the redemption period has expired with the county treasurer for a tax deed for the property. The tax deed application must contain the same information as is required in 15-18-211(1). The county treasurer shall charge the assignee a $25 application fee. The fee must be deposited in the county general fund.

(b) The following property is subject to the provisions of this section if it contains a dwelling that is currently occupied by the legal titleholder of record:

(i) land classified as residential pursuant to 15-6-134;

(ii) land classified as agricultural pursuant to 15-6-133(1)(a) and (1)(c); and

(iii) land classified as forest property pursuant to 15-6-143.

(c) For the property provided for in subsection (1)(b)(ii) and (1)(b)(iii), the provisions of this section also apply to other property of the same class that is included on the same tax bill.

(2) An assignee who applies for a tax deed pursuant to this section shall pay the county treasurer at the time of the tax deed application:

(a) the amount required to redeem any unassigned tax liens or tax liens held by other assignees;

(b) any delinquent taxes, penalties, and interest; and

(c) current taxes due for the property.

(3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed application.

(b) A person acquiring an interest in the property after the tax deed application notice has been filed is considered to be on notice of the pending tax deed auction, and no additional notice is required. The sale at auction of the property automatically releases any filed notice of tax deed application for the property.

(c) If the property is redeemed, the county treasurer shall file a redemption certificate, which releases the notice of tax deed application.

(4) (a) Between May 1 and May 30 of the year in which the redemption period expires, an assignee applying for a tax deed shall notify the parties as required in subsection (4)(b) that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction.

(b) The notice required under subsection (4)(a) must be made by certified mail, return receipt requested, in the form required by 15-18-215 and as provided in 7-1-2121, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(c) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(5) The amount of interest and costs continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(6) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (4) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation must be sent by certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

(b) If the assignee fails to give notice as required by subsection (4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (6)(c), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(c) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

History: **En. Sec. 1, Ch. 317, L. 2019; amd. Sec. 6, Ch. 17, L. 2021.**

15-18-220. Sale at public auction — notice of auction — cancellation of assignment for unsuccessful auction — foreign entity prohibition. (1) Upon receipt of an application for a tax deed pursuant to 15-18-219, the county treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction, the legal description of the property, the deposit requirement, the minimum opening bid, and a requirement that an entity provide proof of domestic entity status as provided in subsection (7). The auction must be held during the regular office hours of the county treasurer.

(2) (a) The opening bid on the property must be the amount required in subsection (2)(b), and the county treasurer may not accept a bid below the opening bid.

(b) The opening bid for the property is equal to the sum of:

(i) the amount required to redeem the tax lien, which includes delinquent taxes, penalties, interest, and costs;

(ii) amounts paid by the assignee upon application for the tax deed pursuant to 15-18-219(2);

(iii) tax deed fees provided for in 15-18-211(2)(a) and recording fees; and

(iv) an amount equal to half of the most recent assessed value of the land and of the dwelling or half of the value of the land and of the dwelling as determined in an independent appraisal. If the opening bid is based on an independent appraisal, the appraisal must be provided to the county treasurer, must meet the standards set by the Montana board of real estate appraisers, and must have been conducted within 6 months of the date of the auction.

(3) (a) Except as provided in subsection (7), the county treasurer shall sell the property to the high bidder for the purchase price bid plus auction costs incurred by the county treasurer. Except as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of 5% of the bid or $200, whichever is greater, at the time of sale. The deposit is applied to the sale price at the time of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the bid of a person who has previously bid and refused, for any reason, to honor the bid.

(b) Except as provided in subsection (7), if the assignee is the high bidder, the assignee shall pay to the county treasurer auction costs and any amounts included in the opening bid and not already paid, including filing fees, tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. If the assignee does not make full payment within 24 hours, excluding weekends and legal holidays, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-225.

(c) Except as provided in subsection (7), if full payment of the purchase price and auction costs is not made within 24 hours of the sale, excluding weekends and legal holidays, by a high

bidder who is not the assignee, the county treasurer shall cancel the high bid and allow the next highest bidder to purchase the tax deed for the amount bid. If the next highest bidder does not make full payment of the purchase price and the auction costs within 24 hours, excluding weekends and legal holidays, of notification by the county treasurer, the county treasurer shall repeat the process and contact the next highest bidder until the purchase price and auction costs are paid or until there are no bidders remaining. If no bidder pays the purchase price and auction costs, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-225.

(d) If there are no bidders at the auction, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-225.

(4) The portion of the opening bid that is equal to half of the most recent assessed value of the land and of the dwelling is considered surplus funds and, upon sale of the property, must be distributed as provided in 15-18-221. If the purchase price is higher than the opening bid, the difference between the purchase price and the opening bid is considered surplus funds and must be distributed as provided in 15-18-221.

(5) Upon full payment of the purchase price, the county treasurer shall issue the tax deed in the form provided in 15-18-213 and distribute the funds as provided in 15-18-221.

(6) An auction required pursuant to this section may be conducted electronically.

(7) (a) A county treasurer may not sell a property under this section to a foreign entity.

(b) A county treasurer may not accept an opening bid on property under this section unless the entity provides written proof that it is a domestic entity.

History: En. Sec. 2, Ch. 317, L. 2019; amd. Sec. 7, Ch. 17, L. 2021; amd. Sec. 2, Ch. 210, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 210, L. 2025. Amendment effective October 1, 2025.

15-18-221. Distribution of tax deed auction proceeds. (1) The county treasurer shall distribute the proceeds of a tax deed auction pursuant to 15-18-220 as provided in this section.

(2) If the tax deed is purchased by a person other than the assignee, the county treasurer shall pay to the assignee:

(a) the amount paid for the assignment of the tax lien, including delinquent taxes, penalties, interest, and costs; and

(b) all amounts paid pursuant to 15-18-219(2).

(3) Within 30 days of receiving payment from the purchaser of the tax deed, the county treasurer shall distribute surplus funds to the legal titleholder of record. The county treasurer shall process the surplus funds regardless of whether the legal titleholder is a resident of the state or not.

History: En. Sec. 3, Ch. 317, L. 2019; amd. Sec. 9, Ch. 17, L. 2021.

15-18-222 through 15-18-224 reserved.

15-18-225. Form of cancellation — unsuccessful auction. The notice of cancellation of an assignment required by 15-18-220 must be made as follows:

I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of..... (address) purchased a tax lien assignment..... (assignment certificate no.) on the following property.....(full legal description) owned by.....(name of owner of record) on..... (date).

I further certify that pursuant to 15-18-219(1), the assignee made an application for a tax deed after the redemption period expired.

I further certify that pursuant to 15-18-220(1) and 7-1-2121, notice of the auction was given on..... (date) and..... (date) in..... (publication).

I further certify that there were no bidders at auction or no bidder made payment as required in 15-18-220(3).

Therefore, the assignment of the tax lien is canceled this..... (date).

.....

Name of County Treasurer

History: En. Sec. 8, Ch. 17, L. 2021; amd. Sec. 3, Ch. 139, L. 2023.

Part 3
Action for Tax Deed
(Repealed)

15-18-301. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 1, Ch. 176, L. 1933; re-en. Sec. 2215.1, R.C.M. 1935; R.C.M. 1947, 84-4162.

15-18-302. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 2, Ch. 176, L. 1933; re-en. Sec. 2215.2, R.C.M. 1935; amd. Sec. 1, Ch. 100, L. 1937; R.C.M. 1947, 84-4163.

15-18-303. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 3, Ch. 176, L. 1933; re-en. Sec. 2215.3, R.C.M. 1935; R.C.M. 1947, 84-4164; amd. Sec. 67, Ch. 575, L. 1981.

15-18-304. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 4, Ch. 176, L. 1933; re-en. Sec. 2215.4, R.C.M. 1935; R.C.M. 1947, 84-4165.

15-18-305. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 5, Ch. 176, L. 1933; re-en. Sec. 2215.5, R.C.M. 1935; amd. Sec. 17, Ch. 52, L. 1977; amd. Sec. 8, Ch. 126, L. 1977; R.C.M. 1947, 84-4166; amd. Sec. 11, Ch. 581, L. 1979.

15-18-306. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 6, Ch. 176, L. 1933; re-en. Sec. 2215.6, R.C.M. 1935; R.C.M. 1947, 84-4167.

15-18-307. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 7, Ch. 176, L. 1933; re-en. Sec. 2215.7, R.C.M. 1935; R.C.M. 1947, 84-4168.

15-18-308. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 8, Ch. 176, L. 1933; re-en. Sec. 2215.8, R.C.M. 1935; amd. Sec. 9, Ch. 126, L. 1977; R.C.M. 1947, 84-4169.

15-18-309. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 9, Ch. 176, L. 1933; re-en. Sec. 2215.9, R.C.M. 1935; amd. Sec. 1, Ch. 63, L. 1937; R.C.M. 1947, 84-4170.

Part 4
Quiet Title

15-18-401. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 131, p. 115, L. 1891; re-en. Sec. 3898, Pol. C. 1895; re-en. Sec. 2654, Rev. C. 1907; amd. Sec. 1, Ch. 50, L. 1909; re-en. Sec. 2214, R.C.M. 1921; Cal. Pol. C. Sec. 3787; amd. Sec. 1, Ch. 85, L. 1927; re-en. Sec. 2214, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1947; R.C.M. 1947, 84-4158(part).

15-18-402. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 131, p. 115, L. 1891; re-en. Sec. 3898, Pol. C. 1895; re-en. Sec. 2654, Rev. C. 1907; amd. Sec. 1, Ch. 50, L. 1909; re-en. Sec. 2214, R.C.M. 1921; Cal. Pol. C. Sec. 3787; amd. Sec. 1, Ch. 85, L. 1927; re-en. Sec. 2214, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1947; R.C.M. 1947, 84-4158(part).

15-18-403. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 132, p. 115, L. 1891; re-en. Sec. 3899, Pol. C. 1895; re-en. Sec. 2655, Rev. C. 1907; re-en. Sec. 2215, R.C.M. 1921; Cal. Pol. C. Sec. 3788; amd. Sec. 2, Ch. 85, L. 1927; re-en. Sec. 2215, R.C.M. 1935; R.C.M. 1947, 84-4161.

15-18-404. Repealed. Sec. 59, Ch. 587, L. 1987.
History: En. Sec. 4, Ch. 65, L. 1933; re-en. Sec. 2208.4, R.C.M. 1935; R.C.M. 1947, 84-4142.

15-18-405 through 15-18-410 reserved.

15-18-411. Action to quiet title to tax deed — notice. (1) (a) In an action brought to set aside or annul any tax deed or to determine the rights of an assignee to real property claimed to have been acquired through tax proceedings or a tax lien assignment, the assignee or the recipient or purchaser of a tax deed pursuant to 15-18-211 or 15-18-220, upon filing an affidavit, may obtain from the court an order directed to the person claiming to:

(i) own the property;
(ii) have any interest in or lien upon the property;
(iii) have a right to redeem the property; or
(iv) have rights hostile to the tax title.

(b) The person described in subsections (1)(a)(i) through (1)(a)(iv) is referred to as the true owner.

(c) Except as provided in subsection (1)(d), the order described in subsection (1)(a) may command the true owner to:

(i) deposit with the court for the use of the assignee:

(A) the amount of all taxes, interest, penalties, and costs that would have accrued if the property had been regularly and legally assessed and taxed as the property of the true owner and was about to be redeemed by the true owner; and

(B) the amount of all sums reasonably paid by the assignee following the order and after 3 years from the date of the attachment of the tax lien to preserve the property or to make improvements on the property while in the assignee's possession, as the total amount of the taxes, interest, penalties, costs, and improvements is alleged by the plaintiff and as must appear in the order; or

(ii) show cause on a date to be fixed in the order, not exceeding 30 days from the date of the order, why the payment should not be made.

(d) The deposit provided for in subsection (1)(c) may not be required of a person found by the court to be indigent following an examination into the matter by the court upon the request of a true owner claiming to be indigent.

(2) The affidavit must list the name and address of the true owner and whether the owner is in the state of Montana, if known to the plaintiff, or state that the address of the true owner is not known to the plaintiff.

(3) (a) The order must be filed with the county clerk and a copy served personally upon each person shown in the affidavit claiming to be a true owner and whose name and address are reasonably ascertainable.

(b) Jurisdiction is acquired over all other persons by giving a copy of the order to the county treasurer.

History: En. Sec. 24, Ch. 587, L. 1987; amd. Sec. 1, Ch. 104, L. 1991; amd. Sec. 1, Ch. 375, L. 2005; amd. Sec. 30, Ch. 2, L. 2009; amd. Sec. 29, Ch. 67, L. 2017; amd. Sec. 13, Ch. 317, L. 2019.

Cross-References

Costs allowed in actions involving title of real estate, 25-10-101, 25-10-102.

15-18-412. Procedure in tax deed quiet title action. (1) Upon the hearing of the order to show cause, the court has jurisdiction to determine the amount to be deposited and to make an order that the same be paid to the court within a period not exceeding 30 days after the order is made.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), if the amount is not paid within the time fixed by the court, the true owner is considered to have waived any defects in the tax proceedings and any right of redemption. In the event of waiver, the true owner has no claim of any kind against the state, a county that is the possessor of the tax lien, an assignee, or the recipient or purchaser of a tax deed pursuant to 15-18-211 or 15-18-220, and a decree must be entered in the action quieting the title of the county, the assignee, or the recipient or purchaser of a tax deed as against the true owner.

(b) The proceedings are void if the taxes were not delinquent or have been paid.

(c) A deposit is not required if the true owner is found by the court to be indigent following an examination into the matter by the court upon the request of a true owner claiming to be indigent.

(3) If payment is made to the court and the true owner is successful in the action and the tax proceedings are declared void, the amount deposited with the court must be paid to the county that is the possessor of the tax lien, the assignee, or the recipient or purchaser of the tax deed.

(4) If the purported true owner is not successful in the action and the title of the county that is the possessor of the tax lien, the assignee, or the recipient or purchaser of the tax deed is sustained, the money must be returned to the purported true owner.

(5) In any action brought by a county that is the possessor of the tax lien, the assignee, or the recipient or purchaser of the tax deed to quiet title, several tracts of land, whether contiguous or noncontiguous or owned by different defendants, may be set forth in one complaint. All persons claiming any title to, interest in, or lien upon any of the premises or any part of the

premises may be joined as defendants, even though their claims are independent, are not in common, and do not cover the same tracts. The procedure in the action must follow, as nearly as practicable, the procedure specified in 70-28-101 through 70-28-109.

(6) In the final judgment, the court shall also determine the rights resulting from any additional taxes on the property accruing or being paid by either party during the pendency of the suit.

(7) In the quiet title action, the court has complete jurisdiction to fix the amount of taxes that should have been paid, including penalties, interest, and costs, and to determine all questions necessary in granting full relief, including the power to order the department or any tax officer to make and certify to the court a corrected or new assessment or to do any other act necessary to enable the court to do complete justice. Errors may be reviewed on appeal from the final judgment.

History: **En. Sec. 25, Ch. 587, L. 1987; amd. Sec. 2, Ch. 104, L. 1991; amd. Sec. 93, Ch. 27, Sp. L. November 1993; amd. Sec. 30, Ch. 67, L. 2017; amd. Sec. 14, Ch. 317, L. 2019.**

15-18-413. Title conveyed by deed — defects. (1) All deeds executed more than 3 years after the applicable attachment of the tax lien or pursuant to 15-18-220 convey to the grantee absolute title to the property described in the deed as of the date of issuance of the deed.

(2) The conveyance includes:

(a) all right, title, interest, estate, lien, claim, and demand of the state of Montana and of the county in and to the property; and

(b) the right, if the tax deed, tax lien attachment, or any of the tax proceedings upon which the deed may be based are attacked and held irregular or void, to recover the unpaid taxes, interest, penalties, and costs that would accrue if the tax proceedings had been regular and it was desired to redeem the property.

(3) The tax deed is free of all encumbrances except as provided in 15-18-214(1).

(4) A tax deed is prima facie evidence of the right of possession accruing as of the date of the issuance of the tax deed.

(5) (a) Subject to 15-18-220 and subsection (5)(b) of this section, if any tax deed or deed purporting to be a tax deed is issued more than 3 years and 30 days after the date of the attachment of the tax lien pursuant to 15-18-211, the grantee may give notice entitled "Notice of Claim of a Tax Title" as provided in 7-1-2121. The notice must:

(i) describe all property claimed to have been acquired by a tax deed;

(ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and costs;

(iii) contain a statement that for further specific information, reference must be made to the records in the office of the county treasurer;

(iv) list the name and address of record of the person in whose name the property was assessed or taxed; and

(v) contain a statement that demand is made that the true owner shall, within 30 days after the later of service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of taxes, interest, penalties, and costs as the same appear in the records of the county treasurer to redeem the property or the true owner may bring a suit to quiet the true owner's title or to set aside the tax deed.

(b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address are reasonably ascertainable.

(6) (a) Provided that the statutory requirements for a notice of intended issuance of a tax deed required by 15-18-212 have been complied with and if within the 30-day period the taxes, interest, penalties, and costs are not paid or a quiet title action is not brought, all defects in the tax proceedings and any right of redemption are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the title to the property described in the notice and in the tax deed is valid and binding, irrespective of any irregularities, defects, or omissions in any of the provisions of the laws of Montana regarding the assessment, levying of taxes, or sale of property for taxes, whether or not the irregularities, defects, or omissions could void the proceedings.

(b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid.

History: **En. Sec. 26, Ch. 587, L. 1987; amd. Sec. 1, Ch. 407, L. 1997; amd. Sec. 31, Ch. 2, L. 2009; amd. Sec. 31, Ch. 67, L. 2017; amd. Sec. 15, Ch. 317, L. 2019.**

CHAPTERS 19 THROUGH 22
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CHAPTER 23
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Chapter Cross-References

Property tax administration, Art. VIII, sec. 3, Mont. Const.
Property tax exemptions, Art. VIII, sec. 5, Mont. Const.

Part 1
General Provisions

Part Cross-References

Metal mines gross proceeds to be assessed under this part, 15-23-807.

15-23-101. Properties centrally assessed — valuation cycles. (1) The department shall centrally assess:

(a) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(b) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state including but not limited to:

(i) telegraph, telephone, microwave, and electric power or transmission lines;

(ii) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service commission or the federal energy regulatory commission;

(iii) common carrier pipelines as defined in 69-13-101;

(iv) natural gas distribution utilities;

(v) the gas gathering facilities specified in 15-6-138(5);

(vi) the dedicated communications infrastructure specified in 15-6-162(5);

(vii) canals, ditches, flumes, or like properties; and

(viii) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(c) all property of scheduled airlines;

(d) the net proceeds of mines, except bentonite mines;

(e) the gross proceeds of coal mines; and

(f) property described in subsections (1)(a) and (1)(b) that is subject to the provisions of Title 15, chapter 24, part 12.

(2) Beginning January 1, 2024, the department shall centrally assess property as provided in this subsection.

(a) The department shall centrally assess annually the property described in subsections (1)(a), (1)(d), (1)(e), and (1)(f).

(b) The department shall centrally assess once every 2 years in odd-numbered years:

(i) telegraph, telephone, and microwave property described in subsection (1)(b)(i);
(ii) the allocations of centrally assessed telecommunication services companies; and
(iii) the property described in subsections (1)(b)(ii), (1)(b)(iii), (1)(b)(v), and (1)(b)(vi).
(c) The department shall centrally assess once every 2 years in even-numbered years:
(i) electric power or transmission lines property described in subsection (1)(b)(i);
(ii) property described in subsections (1)(b)(iv) and (1)(c); and
(iii) centrally assessed property not otherwise provided for in subsection (2)(a) or (2)(b).

History: En. 84-7801 by Sec. 1, Ch. 98, L. 1977; R.C.M. 1947, 84-7801; amd. Sec. 4, Ch. 686, L. 1979; amd. Sec. 3, Ch. 478, L. 1981; amd. Sec. 4, Ch. 683, L. 1983; amd. Sec. 2, Ch. 10, Sp. L. July 1992; amd. Sec. 61, Ch. 42, L. 1997; amd. Sec. 2, Ch. 531, L. 1999; amd. Sec. 8, Ch. 583, L. 1999; amd. Sec. 18, Ch. 7, L. 2001; amd. Sec. 14, Ch. 559, L. 2005; amd. Sec. 3, Ch. 487, L. 2009; amd. Sec. 6, Ch. 411, L. 2011; amd. Sec. 4, Ch. 396, L. 2013; amd. Sec. 3, Ch. 438, L. 2017; amd. Sec. 3, Ch. 234, L. 2023; amd. Sec. 7, Ch. 424, L. 2023.

15-23-102. Independent appraisal option. (1) The department of revenue may have property subject to the provisions of this chapter assessed by a qualified independent appraiser when both the department and the owner of the property subject to the assessment agree in writing:
(a) on a particular independent appraiser to do an appraisal;
(b) to share the costs of the independent appraisal; and
(c) to accept the results of the appraisal.
(2) Appeals from the decision of the department are subject to mediation under 15-1-212 and may be taken to the Montana tax appeal board.

History: En. 84-7802 by Sec. 2, Ch. 98, L. 1977; R.C.M. 1947, 84-7802; (1)En. Sec. 1, Ch. 253, L. 1983; amd. Sec. 15, Ch. 526, L. 1983; amd. Sec. 3, Ch. 36, L. 1999; amd. Sec. 6, Ch. 419, L. 2013; amd. Sec. 38, Ch. 142, L. 2021.

Cross-References
Montana Administrative Procedure Act, Title 2, ch. 4.
Montana Tax Appeal Board, Title 15, ch. 2.

15-23-103. Due date of reports and returns — extensions. (1) Except as provided in subsections (2) and (4), each report or return described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or 15-23-517 must be delivered to the department on or before March 31 each year.
(2) Except as provided in subsection (4), each report or return for a natural gas or oil pipeline described in 15-23-301 must be delivered to the department on or before April 15 each year.
(3) Each report described in 15-23-204, 15-23-212, 15-23-515, 15-23-516, or 15-23-518 must be delivered to the department before April 15 each year.
(4) Beginning January 1, 2024, the reports provided for in subsections (1) and (2) are only required to be delivered to the department in the calendar year the property is valued.
(5) The department may for good cause extend the time for filing a return or report for not more than 30 days.

History: En. 84-7803 by Sec. 3, Ch. 98, L. 1977; amd. Sec. 2, Ch. 494, L. 1977; R.C.M. 1947, 84-7803; amd. Sec. 1, Ch. 606, L. 1983; amd. Sec. 5, Ch. 531, L. 1989; amd. Sec. 5, Ch. 695, L. 1991; amd. Sec. 3, Ch. 10, Sp. L. July 1992; amd. Sec. 5, Ch. 506, L. 1993; amd. Sec. 5, Ch. 397, L. 1995; amd. Sec. 30, Ch. 451, L. 1995; amd. Sec. 8, Ch. 424, L. 2023.

15-23-104. Failure to file — estimate by department — penalty. (1) If any person fails to file a report or return within the time established in 15-23-103 or by a later date approved by the department, the department shall estimate the value of the property that should have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or the person's agent as specified in 15-1-302. An assessment pursuant to parts 5, 7, and 8 of this chapter based on estimated value or imputed value is subject to review under 15-1-211 and mediation under 15-1-212. For each month or part of a month that a report is delinquent, the department shall impose and collect a $25 penalty, with the total not to exceed $200, and shall deposit the penalty to the credit of the general fund. The department shall assess a penalty of 1% of the tax due for each month or part of a month

that the report is delinquent. The department shall notify the county treasurer of each affected county of the amount of the penalty, and the treasurer shall collect the penalty in the same manner as the taxes to which the penalty applies.

(2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent.

History: En. 84-7804 by Sec. 4, Ch. 98, L. 1977; R.C.M. 1947, 84-7804; amd. Sec. 2, Ch. 606, L. 1983; amd. Sec. 3, Ch. 357, L. 1985; amd. Sec. 6, Ch. 811, L. 1991; amd. Sec. 4, Ch. 10, Sp. L. July 1992; amd. Sec. 94, Ch. 27, Sp. L. November 1993; amd. Sec. 31, Ch. 451, L. 1995; amd. Sec. 7, Ch. 419, L. 2013.

15-23-105. Apportionment among counties. The department shall apportion the value of property assessed under 15-23-101, 15-23-205, or 15-23-403, other than railroad car company property, among the counties in which such property is located. Apportionment shall be on a mileage basis or on the basis of the original installed cost of the centrally assessed property located in the respective counties. If the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage or on the basis of the original installed cost of the centrally assessed property located in the respective counties, the department may adopt such other method or basis of apportionment as may be just or proper.

History: En. 84-7805 by Sec. 5, Ch. 98, L. 1977; R.C.M. 1947, 84-7805; amd. Sec. 5, Ch. 686, L. 1979; amd. Sec. 5, Ch. 10, Sp. L. July 1992.

15-23-106. Report to the counties. (1) On or before July 1, the department shall prepare for each county a statement listing:

(a) the assessed value of railroad property, as determined under 15-23-205, apportioned to the county, including the length or other description of the property;

(b) the assessed value of utility property, as determined under 15-23-303, apportioned to the county, including the length or other description of the property;

(c) the assessed value of property of airline companies, as determined under 15-23-403, apportioned to the county; 90% of the value of the property of airline companies apportioned to any county by reason of a state airport being located in the county must be stated separately from the remaining assessed value of the property of airline companies apportioned to the county;

(d) the assessed value of the net proceeds and royalties from mines in the county, as determined under 15-23-503, 15-23-505, and 15-23-515 through 15-23-518; and

(e) the assessed value of the gross proceeds from coal mines, as described in 15-23-701.

(2) The department shall enter the reported assessed values in the property tax record for the county.

History: En. 84-7806 by Sec. 6, Ch. 98, L. 1977; R.C.M. 1947, 84-7806; amd. Sec. 1, Ch. 238, L. 1981; amd. Sec. 6, Ch. 20, L. 1985; amd. Sec. 6, Ch. 531, L. 1989; amd. Sec. 6, Ch. 695, L. 1991; amd. Sec. 6, Ch. 506, L. 1993; amd. Sec. 95, Ch. 27, Sp. L. November 1993; amd. Sec. 6, Ch. 397, L. 1995; amd. Sec. 32, Ch. 451, L. 1995.

Cross-References

Transmittal of airline property tax — state airports, 67-1-303.

15-23-107. Amended assessment. Whenever the valuation of centrally assessed property is revised under 15-8-601 or 15-23-102, the department shall, within 15 days following the final decision or order, enter the revision in the property tax record for each applicable county.

History: En. 84-7807 by Sec. 7, Ch. 98, L. 1977; R.C.M. 1947, 84-7807; amd. Sec. 96, Ch. 27, Sp. L. November 1993; amd. Sec. 4, Ch. 36, L. 1999.

15-23-108. Rulemaking authority. The department of revenue may adopt rules necessary for the taxation of property under this chapter.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd. Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(2).

15-23-109 and 15-23-110 reserved.

15-23-111. Centrally administered tax-exempt property. The possession or beneficial use of tax-exempt property that exists in more than one county or more than one state must be administered under the provisions of this chapter.

History: En. Sec. 2, Ch. 683, L. 1983.

Cross-References

State and other exempt property, Title 15, ch. 24, part 12.

15-23-112 through 15-23-114 reserved.

15-23-115. Interest. If the department determines that a taxpayer has incorrectly reported a value under 15-23-502, 15-23-515, 15-23-516, 15-23-517, 15-23-518, 15-23-701, or 15-23-802 and if an additional tax is due, there must be added to the tax until paid in full interest at the rate of 1% a month or fraction of a month from the date the original tax was due and payable. A taxpayer subject to imposition of interest pursuant to this section is not subject to the penalty and interest provisions contained in 15-16-102.

History: En. Sec. 1, Ch. 112, L. 1983; amd. Sec. 7, Ch. 531, L. 1989; amd. Sec. 7, Ch. 695, L. 1991; amd. Sec. 7, Ch. 506, L. 1993; amd. Sec. 97, Ch. 27, Sp. L. November 1993; amd. Sec. 7, Ch. 397, L. 1995; amd. Sec. 33, Ch. 451, L. 1995.

15-23-116. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) Except as provided in subsection (3), a refund or credit may not be allowed or paid unless the taxpayer has paid the tax under protest as provided by 15-1-402.

(3) If the department determines that the taxpayer has made an overpayment, the department shall refund or credit the overpayment if the overpayment was discovered within 5 years from the last day prescribed for filing the return.

(4) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983; amd. Sec. 2, Ch. 536, L. 2005.

Part 2
Railroads

Part Cross-References

Taxable percentage of property of centrally assessed companies, 15-6-141.

Tax on companies regulated by Public Service Commission to fund Consumer Counsel, 69-1-223.

15-23-201. Renumbered 15-23-204. Sec. 5(2)(a), Ch. 531, L. 1999.

15-23-202. Renumbered 15-23-205. Sec. 5(2)(b), Ch. 531, L. 1999.

15-23-203. Definitions relating to taxes. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) (a) "Base value" means, except as provided in subsection (1)(b), the system value of railroad transportation property of a railroad in the preceding tax year.

(b) For tax year 1999, base value means the system value of railroad transportation property used to determine the railroad's Montana property taxes paid for the 1998 tax year.

(2) "Capitalization rate" means the capitalization rate reported by the surface transportation board, provided for in 49 U.S.C. 701, in its annual cost of capital report.

(3) "Change in earnings" means the value determined by dividing the average earnings for the 5 years immediately preceding the current tax year by the average earnings for the 5 years immediately preceding the previous tax year.

(4) "Change in the capitalization rate" means the value derived by dividing the current year capitalization rate by the preceding year capitalization rate.

(5) "Earnings" means income realized before deducting depreciation, interest expenses, lease expenses, and taxes.

(6) "Gross profit margin" means the ratio of earnings to operating revenue.

(7) "Leased property" means property that is subject to an agreement that transfers the use of the property to the lessee during the term of the lease and that is not capitalized on the lessee's balance sheet.

(8) "Operating revenue" means the amount of money that the railroad is entitled to receive or that accrues to its benefit from services rendered in transporting property or persons by rail.

(9) "System cost" means the total depreciated cost of all railroad transportation property, including leased property within the state and outside the state.

History: En. Sec. 3, Ch. 531, L. 1999.

15-23-204. Assessment of railroads. The president, secretary, or managing agent or such other officer as the department of revenue may designate of any corporation and each person or association of persons owning or operating any railroad in more than one county in this state or more than one state must on or before April 15 each year furnish the department a statement signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending December 31 immediately preceding:

(1) the whole number of miles of railroad in the state and, where the line is partly out of the state, the whole number of miles without the state and the whole number within the state, owned or operated by such corporation, person, or association;

(2) the value of the roadway, roadbed, and rails of the whole railroad and the value of the same within the state;

(3) the width of the right-of-way;

(4) the number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state;

(5) the number, kind, and value of rolling stock owned and operated in the state;

(6) the number, kind, and value of rolling stock used in the state but not owned by the party making the returns;

(7) the number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns or by and upon other railroads;

(8) the whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state;

(9) the number of each kind of rolling stock used in operating the entire railroad, including the part without the state, which must include a detailed statement of the number and value thereof of all engines; passenger, mail, express, baggage, freight, and other cars; or property owned or leased by such corporation, person, or association;

(10) the number of sleeping and dining cars not owned by such corporation, person, or association but used in operating the railroads of such corporation, person, or association in the state or on the line of the road without the state during each month of the year for which the return is made; also the number of miles each month the cars have been run or operated within and without the state;

(11) a description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road has once been given, no other annual description thereof is necessary unless the road has been changed. Whenever the road or any portion of the road is advertised to be sold or is sold for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad or the right-of-way for the same. If such statement is not furnished as above provided, the assessment made by the department upon the property of the corporation, person, or association failing to furnish the statement is conclusive and final.

(12) the gross earnings of the entire road;

(13) the gross earnings of the road within the state and, if the railroad is let to other operators, how much was derived by the lessor as rental;

(14) the cost of operating the entire road, exclusive of sinking fund, expenses of land department, and money paid to the United States;

(15) net income for such year and amount of dividend declared;

(16) capital stock authorized;

(17) capital stock paid in;

(18) funded debt;

(19) number of shares authorized;

(20) number of shares of stock issued;

(21) number, kind, and total number of miles traveled within the state by railroad cars owned by railroad car companies; and

(22) any other facts the department may require.

History: En. Sec. 1675, 5th Div. Comp. Stat. 1887; amd. Sec. 43, p. 87, L. 1891; re-en. Sec. 3737, Pol. C. 1895; re-en. Sec. 2556, Rev. C. 1907; re-en. Sec. 2131, R.C.M. 1921; Cal. Pol. C. Sec. 3664; amd. Sec. 1, Ch. 7, L. 1925; re-en. Sec. 2131, R.C.M. 1935; amd. Sec. 23, Ch. 516, L. 1973; amd. Sec. 10, Ch. 98, L. 1977; amd. Sec. 1, Ch. 494, L. 1977; R.C.M. 1947, 84-801; amd. Sec. 6, Ch. 10, Sp. L. July 1992; Sec. 15-23-201, MCA 1997; redes. 15-23-204 by Sec. 5(2)(a), Ch. 531, L. 1999.

Cross-References

Where railroad property assessed, 15-8-407.

Due date of report, 15-23-103.

15-23-205. Assessment — how made. (1) The department shall assess the railroad transportation property of all railroads operated in more than one county or more than one state as provided in this section. Assessment must be made to the person owning or leasing or using the property and must be made upon the entire railroad within the state.

(2) The department shall determine the value of the railroad system for the current year by multiplying the base value of the railroad by the value change factor determined under subsection (3).

(3) (a) The value change factor is the sum of the income change factor, weighted by 50%, the gross profit margin change factor, weighted by 25%, and the property change factor, weighted by 25%.

(b) The income change factor is determined by dividing the change in earnings by the change in the capitalization rate.

(c) The gross profit margin change factor is determined by dividing the average gross profit margin for the 2 years immediately preceding the current tax year by the average gross profit margin for the 2 years immediately preceding the previous tax year.

(d) The property change factor is determined by dividing the system cost reported by the railroad for the tax year immediately preceding the current tax year by the system cost reported by the railroad for the tax year immediately preceding the previous tax year.

(4) The department shall apportion the system value of the railroad to Montana by multiplying the system value of the railroad determined under subsection (2) by the average of the allocation factor for the 2 years immediately preceding the current tax year. The allocation factor is determined under subsection (5).

(5) The allocation factor used to apportion the system value of the railroad to Montana is the average of the sum of:

(a) the ratio of track miles in the state to total system track miles;

(b) the ratio of revenue ton miles in the state to total system revenue ton miles;

(c) the ratio of gross investment in road and equipment in the state to total system gross investment in road and equipment;

(d) the ratio of operating revenue reported in the state to total system operating revenue; and

(e) the ratio of railroad car and locomotive miles in the state to total system railroad car and locomotive miles.

(6) The department shall take into account extenuating circumstances to adjust the assessed value of railroad property in the state. Occurrences that may result in an adjustment to the assessed value of railroad property include but are not limited to:

(a) extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary business operations, that are not expected to recur frequently, and that are not normally considered in the evaluation of the operating results of a business; and

(b) material increases or decreases in income and property as a result of events such as writeoffs, writedowns, and changes in accounting methods or practices.

(7) In determining the taxable value of railroad property, the department shall determine the percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended.

History: En. Sec. 1675, 5th Div. Comp. Stat. 1887; amd. Sec. 44, p. 89, L. 1891; re-en. Sec. 3738, Pol. C. 1895; re-en. Sec. 2557, Rev. C. 1907; re-en. Sec. 2132, R.C.M. 1921; Cal. Pol. C. Sec. 3665; re-en. Sec. 2132, R.C.M. 1935; amd. Sec. 1, Ch. 13, L. 1939; amd. Sec. 62(a), Ch. 405, L. 1973; amd. Sec. 11, Ch. 98, L. 1977; R.C.M. 1947, 84-802; amd. Sec. 6, Ch. 686, L. 1979; amd. Sec. 2, Ch. 367, L. 1981; amd. Sec. 8, Ch. 743, L. 1985; amd. Sec. 4, Ch. 531, L. 1999; Sec. 15-23-202, MCA 1997; redes. 15-23-205 by Sec. 5(2)(b), Ch. 531, L. 1999; amd. Sec. 9, Ch. 583, L. 1999.

Cross-References

Department to apportion value among counties, 15-23-105.
Value to be transmitted to counties, 15-23-106.

15-23-206 through 15-23-210 reserved.

15-23-211. Definitions. As used in 15-23-211 through 15-23-216, unless the context requires otherwise, the following definitions apply:

(1) "Average levy" means the average statewide rate of taxation on commercial and industrial property.

(2) "Person" includes an individual, firm, association, company, partnership, corporation, joint-stock company, agency, syndicate, or cooperative.

(3) "Private railroad cars" means all railroad cars that:

(a) are not owned by a railroad company operating in this state;

(b) are used for transporting persons or freight; and

(c) are not otherwise assessed for property taxation in this state.

(4) "Railroad car company" means any person, other than a railroad company, engaged in operating, leasing, or furnishing private railroad cars, whether or not owned by that person, for the transportation of persons or freight over railroad lines located wholly or partially within this state.

History: En. Sec. 7, Ch. 10, Sp. L. July 1992; amd. Sec. 1, Ch. 532, L. 1993; amd. Sec. 1, Ch. 16, L. 1997.

15-23-212. Annual report. Each railroad car company shall, annually and within the time requirements of 15-23-103(3) and (5), file with the department of revenue a report, signed and sworn to by one of its designated officers, that provides the following information as of the preceding December 31:

(1) the name and nature of the business of the company;

(2) the number, kind, acquisition cost, date of acquisition, and name of owner of its private railroad cars;

(3) the cost of additions and betterment, special equipment, racks, protective equipment, or any other modification or improvement to a car since acquisition;

(4) the total car miles traveled, loaded and unloaded, within the state during the calendar year preceding the date of filing;

(5) the total car miles traveled, loaded and unloaded, within and outside of the state during the calendar year preceding the date of filing;

(6) the average number of miles traveled by each class of car during the year;

(7) the description and location of real and personal property that is owned by the railroad car company and that is subject to taxation within this state; and

(8) any other facts the department may require.

History: En. Sec. 8, Ch. 10, Sp. L. July 1992; amd. Sec. 9, Ch. 424, L. 2023.

15-23-213. Assessment — allocation — taxable value. (1) The department of revenue shall assess the property in the name of the railroad car company owning the property unless the property is reported by another person leasing or operating the property.

(2) The allocation of property to this state must be made on the basis of the car miles traveled within the state to the total car miles traveled unless the department by administrative rule adopts a different formula.

(3) In determining taxable value, the department shall use the percentage rate "R", as provided in 15-6-145, to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended.

History: En. Sec. 9, Ch. 10, Sp. L. July 1992.

15-23-214. Determination of tax — payment — penalty and interest. (1) Subject to 15-10-420 and on or before the third Monday in October, the department shall compute the

tax on railroad car company property by multiplying the taxable value of the property by the average levy.

(2) After determining the tax, the department shall send to the last-known address of each railroad car company subject to taxation a written notice, postage prepaid, showing the amount of taxes due for the current year and any delinquent amount for prior years. The notice must include the taxable value of the property and the average levy used to compute the tax.

(3) The tax is due and payable to the department under the provisions of 15-16-102. A tax not received by the department within the time requirements of 15-16-102 is delinquent and subject to penalty and interest as provided in 15-1-216.

History: En. Sec. 10, Ch. 10, Sp. L. July 1992; amd. Sec. 96, Ch. 584, L. 1999; amd. Sec. 4, Ch. 594, L. 2005.

15-23-215. Deposit of taxes. All taxes, penalties, and interest collected by the department of revenue under 15-23-211 through 15-23-216 must be deposited in the general fund.

History: En. Sec. 11, Ch. 10, Sp. L. July 1992.

15-23-216. Lien — collection actions. (1) A tax due under 15-23-211 through 15-23-216 is a lien on all real and personal property of the railroad car company to the same extent as are other taxes under 15-16-401 and 15-16-402.

(2) The department may at any time after the taxes are delinquent use the following collection actions:

(a) seizure and sale of personal property, as provided in 15-17-911, with the department having the same authority as the county treasurer;

(b) suit for collection in district court; or

(c) issuance of a warrant for distraint, as provided in Title 15, chapter 1, part 7.

(3) The use of one collection method does not prevent the department from using other collection methods.

History: En. Sec. 12, Ch. 10, Sp. L. July 1992.

Part 3
Public Utilities

Part Cross-References

Taxable percentage of public utility property, 15-6-135, 15-6-137, 15-6-141.

Tax on companies regulated by Public Service Commission to fund Consumer Counsel, 69-1-223.

15-23-301. Officers of certain public utility companies to furnish statement to department. The president, secretary, or managing agent of a corporation or any other officer that the department may designate and each person or association of persons owning or operating a telegraph, telephone, microwave, or electric power or transmission line, a natural gas distribution utility, a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission, a common carrier pipeline as defined in 69-13-101, or any canal, ditch, flume, or other property, other than real estate not included in a right-of-way, that constitutes a single and continuous property throughout more than one county or state, shall each year furnish the department with a statement, signed and sworn to by one of the officers or by the person or one of the persons forming the association, showing in detail for the year ending on December 31 immediately preceding:

(1) the whole number of miles of property in the state and, if the property is partly out of the state, the whole number of miles outside of the state and the whole number of miles within the state owned or operated by the corporation, person, or association;

(2) the total value of the entire property and plant, both within and outside of the state, and the total value of that portion of the property and plant within the state;

(3) a complete description of the property within the state, giving the points of entrance into and the points of exit from the state and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state;

(4) other information regarding the property as may be required by the department.

History: En. Sec. 1, Ch. 49, L. 1919; re-en. Sec. 2138, R.C.M. 1921; re-en. Sec. 2138, R.C.M. 1935; amd. Sec. 1, Ch. 17, L. 1939; amd. Sec. 25, Ch. 516, L. 1973; amd. Sec. 1, Ch. 50, L. 1974; amd. Sec. 1, Ch. 210, L. 1975; amd. Sec. 12, Ch. 98, L. 1977; R.C.M. 1947, 84-901; amd. Sec. 4, Ch. 487, L. 2009; amd. Sec. 4, Ch. 234, L. 2023.

Cross-References
When public utility property assessed, 15-8-406.
Due date of report, 15-23-103.

15-23-302. Repealed. Sec. 11, Ch. 686, L. 1979.
History: En. Sec. 2, Ch. 49, L. 1919; re-en. Sec. 2139, R.C.M. 1921; re-en. Sec. 2139, R.C.M. 1935; amd. Sec. 2, Ch. 17, L. 1939; amd. Sec. 64, Ch. 405, L. 1973; amd. Sec. 2, Ch. 210, L. 1975; R.C.M. 1947, 84-902.

15-23-303. Assessment of property — apportionment to counties. The department shall assess all property described in 15-23-301, but franchises may not be assessed. The value of property for assessment purposes must be determined upon factors that the department considers proper.
History: En. Sec. 6, Ch. 49, L. 1919; re-en. Sec. 2143, R.C.M. 1921; re-en. Sec. 2143, R.C.M. 1935; amd. Sec. 4, Ch. 17, L. 1939; amd. Sec. 27, Ch. 516, L. 1973; amd. Sec. 13, Ch. 98, L. 1977; R.C.M. 1947, 84-905; amd. Sec. 10, Ch. 583, L. 1999.

Part 4
Airlines

15-23-401. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:
(1) "Air commerce" means the transportation by aircraft of persons or property for hire in interstate, intrastate, or international transportation on regularly scheduled flights.
(2) "Aircraft" means a conveyance used or designed for navigation or flight through the air.
(3) "Equated plane hours" means hours spent by aircraft in flight or on the ground weighted according to the cargo capacity of each aircraft.
(4) "Flight property" means aircraft fully equipped, ready for flight used in air commerce.
(5) "Newly acquired aircraft" means an aircraft acquired and placed into service within the calendar year immediately preceding the current calendar year in which the report that is required by 15-23-402 is filed regardless of whether the aircraft acquired is new or used. Newly acquired aircraft includes an aircraft acquired and placed in service in calendar year 1997 provided that the aircraft was included in the report and the report was timely filed.
(6) "Newly acquired equipment" means equipment acquired and placed into service within the calendar year immediately preceding the current calendar year in which the report that is required by 15-23-402 is filed regardless of whether the equipment acquired is new or used. Newly acquired equipment includes equipment acquired and placed in service in calendar year 1997 provided that the equipment was included in the report and the report was timely filed.
(7) "Operating" or "operated" means landings or takeoffs during interstate flight.
(8) "Regularly scheduled flight" means a flight or aircraft taking off or landing in the state of Montana with a maximum takeoff weight of more than 19,000 pounds.
(9) "Scheduled airline company" means any person who undertakes directly or indirectly to engage in the business of scheduled air commerce.
History: En. Sec. 1, Ch. 249, L. 1955; amd. Sec. 1, Ch. 367, L. 1969; amd. Sec. 22, Ch. 52, L. 1977; R.C.M. 1947, 84-6401; amd. Sec. 1, Ch. 140, L. 1999; amd. Sec. 1, Ch. 191, L. 2017.

15-23-402. Report by airline company. Every airline company engaged in air commerce in this state shall annually file with the department of revenue in such form as the department may require a report under oath showing the following:
(1) the name of the person or persons, association, joint-stock company, or corporation;
(2) under the laws of what state organized or existing;
(3) the location of its principal office;
(4) the location of its principal office in this state, if any;
(5) the number of aircraft of each type or kind, the total original cost, the average cost per plane, the total depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;
(6) the number of shares of capital stock authorized, number of shares outstanding, the total par value and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and long-term debt and the market value at the end of the preceding calendar year;

(7) income account showing operating revenues and expenses of the entire system and net operating income during the preceding calendar year;

(8) the total tonnage of passengers, express, and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express, and freight finally discharged by it within this state during the preceding calendar year and the total of such tonnage first received by the airline company or finally discharged by it within and without this state during the preceding calendar year;

(9) the total time in equated plane hours of all aircraft of the scheduled airline company in flight in this state during the preceding calendar year plus the total time of such aircraft on the ground in this state during the preceding calendar year and the total of such time in flight or on the ground within and without this state during the preceding calendar year;

(10) the number of revenue ton-miles of passengers, mail, express, and freight flown by the scheduled airline company within this state during the preceding calendar year and the total number of such miles flown by it within and without this state during the preceding calendar year;

(11) the number of arrivals and departures of all aircraft of the scheduled airline company in this state during the preceding calendar year and the total number of such arrivals and departures within and without this state during the preceding calendar year;

(12) such other information as the department may require.

History: En. Sec. 3, Ch. 249, L. 1955; amd. Sec. 243, Ch. 516, L. 1973; amd. Sec. 21, Ch. 98, L. 1977; R.C.M. 1947, 84-6403.

Cross-References

Due date of report, 15-23-103.

15-23-403. Determination of value — exception for new aircraft and supporting equipment — nonoperating property — notice. (1) The department of revenue shall determine the full and true valuation of all property of each airline operating in this state or used by each scheduled airline company in air commerce. Except as provided in subsection (2), this valuation may be ascertained by:

(a) determining the full and true valuation of all property owned and operated by each scheduled airline company; and

(b) allocating to the state of Montana from the total valuation a valuation that represents this state's proper share of the valuation of the property, through the application of the ratios that are described in 15-23-402(8), (9), (10), and (11) against the total valuation.

(2) For a scheduled airline company operating within this state whose allocation of valuation within this state, as determined under subsection (1)(b), is 50% or more, the department shall determine the valuation of a newly acquired aircraft and newly acquired equipment to support that aircraft at 28% of full and true valuation for the first year after acquisition. For each succeeding year, the department shall increase the valuation by 8% over the previous year's valuation until the valuation equals full and true valuation.

(3) Aircraft with a maximum takeoff weight of 19,000 pounds or less is considered nonoperating property and must be removed from the market value of a scheduled airline company.

(4) After making the assessment as provided in subsection (1) or (2), the department shall give written notice of the assessment to the person or persons to whom the assessment is made.

History: En. Sec. 4, Ch. 249, L. 1955; amd. Sec. 2, Ch. 367, L. 1969; amd. Sec. 244, Ch. 516, L. 1973; amd. Sec. 2, Ch. 328, L. 1975; R.C.M. 1947, 84-6404; amd. Sec. 7, Ch. 686, L. 1979; amd. Sec. 1, Ch. 520, L. 1987; amd. Sec. 2, Ch. 140, L. 1999; amd. Sec. 2, Ch. 191, L. 2017.

Cross-References

Department to apportion value among counties, 15-23-105.

Value to be transmitted to counties, 15-23-106.

Part 5
Mines Net Proceeds

Part Cross-References

Classification and taxable percentage of mines net proceeds, 15-6-131.

Mining license taxes, Title 15, ch. 37.

15-23-501. Taxation of mines. (1) All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase of the mines and mining claims from the United States, are taxed as all other land is taxed. All machinery, equipment, and other personal property used in mining or appurtenant to mines and mining claims that have a value separate and independent of the mines or mining claims and, except as provided in subsection (2), the annual net proceeds of all mines and mining claims are taxed as other personal property. Surface improvements upon or appurtenant to mines and mining claims that have a value separate and independent of the mines or mining claims are taxed as other improvements.

(2) Bentonite produced from mines and mining claims is not subject to net proceeds taxation and is taxed as provided in Title 15, chapter 39, part 1.

History: En. Sec. 3, p. 73, L. 1891; re-en. Sec. 3672, Pol. C. 1895; re-en. Sec. 2500, Rev. C. 1907; re-en. Sec. 2088, R.C.M. 1921; re-en. Sec. 2088, R.C.M. 1935; R.C.M. 1947, 84-5401; amd. Sec. 18, Ch. 693, L. 1979; amd. Sec. 15, Ch. 559, L. 2005.

Cross-References

Mines as real estate, 15-1-101.

15-23-502. Net proceeds tax — statement of yield. Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever precious stones or gems, vermiculite, or other valuable mineral, except bentonite, coal, and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the year in which the statement is made. The statement must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515 through 15-23-518, the statement must show the following:

(1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;

(2) the description and location of the mine;

(3) the number of tons of ore or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement;

(4) the amount and character of the ores, mineral products, or deposits and the yield of the ores, mineral products, or deposits from the mine in constituents of commercial value; that is, commercially valuable constituents of the ores, mineral products, or deposits, measured by standard units of measurement, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement;

(5) the gross yield or value in dollars and cents;

(6) cost of extracting from the mine;

(7) cost of transporting to place of reduction or sale;

(8) cost of reduction or sale;

(9) cost of marketing the product and conversion of the product into money;

(10) cost of construction, repairs, and betterments of mines and cost of repairs and replacements of reduction works;

(11) the assessed valuation of reduction works for the calendar year for which the return is made;

(12) cost of fire insurance, workers' compensation insurance, boiler and machinery insurance, and public liability insurance paid for the mine, reduction works, or beneficiation process;

(13) cost of welfare and retirement fund payments provided for in wage contracts;

(14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and

geological services for existing mining operations but not including any services beyond the stage of reduction and beneficiation of the minerals; and

(15) cost of mine reclamation.

History: En. Sec. 1, Ch. 237, L. 1921; re-en. Sec. 2089, R.C.M. 1921; amd. Sec. 1, Ch. 191, L. 1925; amd. Sec. 1, Ch. 139, L. 1927; amd. Sec. 1, Ch. 161, L. 1933; amd. Sec. 1, Ch. 188, L. 1935; re-en. Sec. 2089, R.C.M. 1935; amd. Sec. 1, Ch. 95, L. 1947; amd. Sec. 1, Ch. 138, L. 1969; amd. Sec. 195, Ch. 516, L. 1973; amd. Sec. 16, Ch. 525, L. 1975; amd. Sec. 18, Ch. 52, L. 1977; amd. Sec. 14, Ch. 98, L. 1977; amd. Sec. 4, Ch. 498, L. 1977; R.C.M. 1947, 84-5402; amd. Sec. 1, Ch. 528, L. 1983; amd. Sec. 1, Ch. 623, L. 1985; amd. Sec. 8, Ch. 531, L. 1989; amd. Sec. 8, Ch. 695, L. 1991; amd. Sec. 2, Ch. 700, L. 1991; amd. Sec. 8, Ch. 506, L. 1993; amd. Sec. 8, Ch. 397, L. 1995; amd. Sec. 16, Ch. 559, L. 2005.

Cross-References

Due date of report, 15-23-103.

15-23-503. Net proceeds — how computed. (1) The department of revenue shall calculate from the returns the gross product yielded from a mine and its gross value for the year covered by the statement and shall calculate and compute the net proceeds of the mine yielded to the person engaged in mining. Except as provided in 15-23-515 through 15-23-518, net proceeds must be determined by subtracting from the value of the gross product of the mine the following:

(a) all royalty paid or apportioned in cash or in kind by the person engaged in mining;

(b) all money expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

(c) all money expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as provided in this section;

(d) all money expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

(e) depreciation in the sum of 6% of the assessed valuation of the milling and reduction works for the calendar year for which the return is made;

(f) all money actually expended for transporting the ores and mineral products or deposits from the mines to the mill or reduction works or to the place of sale and for extracting the metals and minerals and for marketing the product and the conversion of the product into money;

(g) all money expended for insurance and welfare and retirement costs reported in the statement required in 15-23-502;

(h) all money expended for necessary labor, equipment, and supplies for testing minerals extracted to satisfy federal or state health and safety laws or regulations, for plant security in Montana, for assaying and sampling the extracted minerals, for the cost of reclamation at the site of the mine, and for engineering and geological services conducted in Montana for existing mining operations but not including services beyond the stage of reduction and beneficiation of the minerals.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the department shall allow 10% of the cost each year for a period of 10 years.

(3) Money invested in mines or improvements may not be allowed as a deduction unless all machinery, equipment, and buildings represented by the money are returned to the county in which the mine is located for assessment purposes at the level of assessment of all other property in the county.

(4) Money invested in the mines and improvements during any year except the year for which the statement is made and except as provided in this section may not be included in the expenditures, and the expenditures may not include the salary or any portion of the salary of any person or officer not actually engaged in the working of the mine or superintending the management of the mine.

History: En. Sec. 2, Ch. 237, L. 1921; re-en. Sec. 2090, R.C.M. 1921; amd. Sec. 2, Ch. 191, L. 1925; amd. Sec. 2, Ch. 139, L. 1927; amd. Sec. 2, Ch. 161, L. 1933; amd. Sec. 2, Ch. 188, L. 1935; re-en. Sec. 2090, R.C.M. 1935; amd. Sec. 1, Ch. 57, L. 1951; amd. Sec. 1, Ch. 257, L. 1959; amd. Sec. 109, Ch. 405, L. 1973; amd. Sec. 15, Ch. 98, L. 1977; R.C.M. 1947, 84-5403; amd. Sec. 2, Ch. 528, L. 1983; amd. Sec. 2, Ch. 623, L. 1985; amd. Sec. 9, Ch. 531, L. 1989; amd. Sec. 9, Ch. 695, L. 1991; amd. Sec. 9, Ch. 506, L. 1993; amd. Sec. 9, Ch. 397, L. 1995.

Cross-References

Classification and tax rate for net proceeds of mines, 15-6-131.

Assessment, 15-8-111.

Transmission of value to counties, 15-23-106.

15-23-504. Lien of tax and penalty. The tax and penalty so assessed on net proceeds are a lien upon all of the right, title, and interest of such operator in or to such mine or mining claim and upon all of the right, title, and interest in or to the machinery, buildings, tools, and equipment used in operating the mine or mining claim. The tax and penalty on such net proceeds may be collected and the payment enforced by the seizure and sale of the personal property upon which the tax and penalty are a lien in the same manner as other personal property is seized and sold for delinquent taxes or by the sale of the mine and improvements, as provided for the sale of real property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction. Resort to any one of the methods of enforcing collection shall not bar the right to resort to either or both of the other methods, but any two or all of the methods may be used until the full amount of such tax and penalty is collected.

History: En. Sec. 4, Ch. 161, L. 1933; re-en. Sec. 2090.2, R.C.M. 1935; amd. Sec. 2, Ch. 138, L. 1969; amd. Sec. 16, Ch. 98, L. 1977; R.C.M. 1947, 84-5405.

Cross-References

Sale of personal property for delinquent taxes, 15-16-119.
Collection of delinquent taxes by suit, Title 15, ch. 16, part 5.
Attachment of tax lien to real property for delinquent taxes, Title 15, ch. 17.
Lien of mines net proceeds tax, 15-23-504.

15-23-505. Assessment of royalties. Upon receipt of the list or schedule setting forth the names and addresses of any and all persons owning or claiming royalty and the amount paid or yielded as royalty to the royalty owners or claimants during the year for which the return is made, the department of revenue shall proceed to assess and tax the royalties on the same basis as net proceeds of mines are taxed as provided by 15-6-131.

History: En. Sec. 3, Ch. 188, L. 1935; re-en. Sec. 2090.3, R.C.M. 1935; amd. Sec. 196, Ch. 516, L. 1973; amd. Sec. 64, Ch. 566, L. 1977; R.C.M. 1947, 84-5406; amd. Sec. 19, Ch. 693, L. 1979.

Cross-References

Transmission of value to counties, 15-23-106.

15-23-506. False or fraudulent reports. If any report required by this part contains any willfully false or fraudulent statements as to the gross amount received by any person engaged in mining for any mine's product, then the department shall compute the gross value of such mine's product based upon the average quotations of the price of such mine's product in New York City or the relative market value at the point of delivery as evidenced by some established authority or market report. If any such person has sold or otherwise disposed of any of its mine's product at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the department shall compute the gross value of such portion of the mine's product so sold or disposed of substantially below the market price, which gross value shall be based upon the quotations of the price of such mine's product in New York City or the relative market value at the point of delivery at the time such portion of the product was so sold or otherwise disposed of as evidenced by some established authority or market report. Should there be no quotation covering any particular product, then the department shall fix the value of such gross product or such portion thereof as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable.

History: En. Sec. 4, Ch. 188, L. 1935; re-en. Sec. 2090.4, R.C.M. 1935; amd. Sec. 197, Ch. 516, L. 1973; amd. Sec. 17, Ch. 98, L. 1977; R.C.M. 1947, 84-5407.

Cross-References

Failure to file report, 15-23-104.

15-23-507. Taxation and payment on royalty interests. At the time of computing net proceeds assessments, the department shall also determine the royalty lists or schedules for each county in which the mines and mining claims are located. The department shall prepare from the net proceeds and royalty assessments a tax roll that must be furnished to the county treasurer on or before the following September 15. Upon furnishing the tax roll, the taxes are due and payable. Assessments of royalty on production of metals and minerals other than petroleum and natural gas must be entered by the department in the property tax record in the name of the recipient or owner of the royalty. The county treasurer shall give full notice of the assessment to the recipient or royalty owner and shall collect the taxes in the same manner as taxes on net proceeds of mines. Taxes on the royalty assessments and taxes on net proceeds of

mines are payable at the times specified in 15-16-102, and any delinquencies in the payment are subject to the interest and penalties provided in 15-16-102.

History: En. Sec. 6, Ch. 188, L. 1935; re-en. Sec. 2091.1, R.C.M. 1935; amd. Sec. 1, Ch. 162, L. 1939; amd. Sec. 2, Ch. 257, L. 1959; amd. Sec. 199, Ch. 516, L. 1973; amd. Sec. 1, Ch. 398, L. 1975; R.C.M. 1947, 84-5409; amd. Sec. 98, Ch. 27, Sp. L. November 1993.

15-23-508. Lien of tax — enforcement of payment. (1) The taxes on such net proceeds must be levied as the levy of other taxes is provided for, and every such tax is a lien upon the mine or mining claim from which the ore or mineral products or deposits are mined or extracted and is a prior lien upon all personal property and improvements used in the process of extracting such ore or mineral products or deposits, provided such personal or real property is owned by or under lease by the person who extracted said ore, mineral products, or deposits.

(2) The tax on such net proceeds may be collected and the payment thereof enforced by the seizure and sale of the personal property upon which the tax is a lien in the same manner as other personal property is seized and sold for delinquent taxes or by the sale of the mine or mining claim and improvements, as provided for the sale of real property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to any one of the methods of enforcing collection as herein provided for shall not bar the right to resort to either or both of the other methods, but any two or all of the methods herein provided for may be used until the full amount of such tax is collected.

History: En. Sec. 7, Ch. 237, L. 1921; re-en. Sec. 2095, R.C.M. 1921; amd. Sec. 1, Ch. 143, L. 1925; re-en. Sec. 2095, R.C.M. 1935; amd. Sec. 20, Ch. 52, L. 1977; R.C.M. 1947, 84-5413.

Cross-References

Sale of personal property for delinquent taxes, 15-16-119.
Collection of delinquent taxes by suit, Title 15, ch. 16, part 5.
Attachment of tax lien to real property for delinquent taxes, Title 15, ch. 17.
Lien of mines net proceeds tax, 15-23-504.

15-23-509. Repealed. Sec. 35, Ch. 581, L. 1979.

History: En. Sec. 5, Ch. 237, L. 1921; re-en. Sec. 2093, R.C.M. 1921; re-en. Sec. 2093, R.C.M. 1935; R.C.M. 1947, 84-5411.

15-23-510 through 15-23-514 reserved.

15-23-515. Net proceeds for talc — statement — value. (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of talc must contain the following:

(a) the name and address of the owner or lessee or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) the number of tons of talc extracted, produced, and treated or sold from the mine during the period covered by the statement;

(d) the amount and character of the talc and the yield of the talc from the mine, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield or value in dollars and cents.

(2) (a) For the purposes of this section, the gross yield or value of talc is determined by multiplying the number of tons of talc reported under subsection (1)(c) by:

(i) for the taxable year beginning January 1, 1989, $4.25; and

(ii) for the taxable years beginning January 1, 1990, and thereafter, the product obtained by multiplying $4.25 by the quotient of the PCE for the first quarter of the year previous to the taxable year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the 1989 taxable year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

History: En. Sec. 1, Ch. 531, L. 1989; amd. Sec. 10, Ch. 695, L. 1991.

15-23-516. Net proceeds for vermiculite — statement — value. (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of vermiculite must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) the number of tons of vermiculite extracted, produced, and treated or sold from the mine during the period covered by the statement;

(d) the amount and character of the vermiculite and the yield of the vermiculite from the mine, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield or value in dollars and cents.

(2) (a) For the purposes of this section, the gross yield or value of vermiculite is determined by multiplying the number of tons of vermiculite reported under subsection (1)(c) by:

(i) for the taxable year beginning January 1, 1991, $27; and

(ii) for the taxable years beginning January 1, 1992, and thereafter, the product obtained by multiplying $27 by the quotient of the PCE for the first quarter of the year previous to the taxable year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the 1991 taxable year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

History: En. Sec. 1, Ch. 695, L. 1991.

15-23-517. Net proceeds for limestone — statement — value. (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of limestone extracted for the production of quicklime must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) the number of tons of limestone extracted and sold either as limestone or quicklime from the mine during the period covered by the statement;

(d) the amount and character of the limestone and the yield of the limestone from the mine, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield or value in dollars and cents.

(2) (a) For purposes of this section, the gross yield or value of limestone is determined by multiplying the number of tons of limestone reported under subsection (1)(c) by:

(i) for the tax year beginning January 1, 1993, 34 cents; and

(ii) for the taxable years beginning January 1, 1994, and thereafter, the product obtained by multiplying 34 cents by the quotient of the PCE for the first quarter of the year previous to the taxable year for which the net proceeds value is being calculated, divided by the PCE for the first quarter of the 1992 taxable year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

History: En. Sec. 1, Ch. 506, L. 1993.

15-23-518. Net proceeds for industrial garnets and byproducts — statement — value — exemption. (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of industrial garnets and associated byproducts must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product

of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) (i) the number of tons of rougher garnet concentrate produced by initial concentration and sold from the mine during the period covered by the statement; and

(ii) the gross revenue received from any byproduct produced and sold as a result of the garnet mining operation.

(d) the amount and character of the industrial garnet and byproducts from the mine and the amount of the industrial garnets measured in tons and associated byproducts measured in dollars yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield or value in dollars and cents.

(2) (a) For the purposes of this section, the gross yield or value of industrial garnets is determined by multiplying the number of tons of rougher garnet concentrate reported under subsection (1)(c)(i) by:

(i) for the tax year beginning January 1, 1996, $20; and

(ii) for the tax years beginning January 1, 1997, and thereafter, the product obtained by multiplying $20 by the quotient of the PCE for the first quarter of the year previous to the tax year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the 1995 tax year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) The gross yield or value of the byproducts produced and sold as a result of industrial garnet production is determined by multiplying the gross revenue reported under subsection (1)(c)(ii) by 30%.

(3) For the purposes of this section, "associated byproducts" means gold, silver, copper, lead, or any other mineral or precious or semiprecious gems or stones that are produced, processed, and sold in conjunction with the mining and processing of industrial garnets.

(4) A person who produces and sells associated byproducts subject to taxation under this section is not required to file a statement or pay the tax on the associated byproducts under Title 15, chapter 23, part 8, or under Title 15, chapter 37, part 1.

(5) (a) Except as provided in subsection (5)(b), a person is not liable for the net proceeds tax on 1,000 tons or less of rougher garnet concentrate, including the value of associated byproducts, produced and sold in a calendar year.

(b) A person who produces and sells more than 1,000 tons of rougher garnet concentrate in a calendar year is liable for the net proceeds tax on all rougher garnet concentrate, including the value of associated byproducts, produced and sold in the calendar year.

History: En. Sec. 1, Ch. 397, L. 1995.

15-23-519 and 15-23-520 reserved.

15-23-521. Examination of records by department. The department of revenue may at any time examine the records of any person specified in this part as the records may pertain to the yield of ore or mineral products or deposit in order to verify the statements made by the person. If from the examination or from other information, the department finds any statement or any material part of a statement willfully false or fraudulent, the department must assess in the same manner as provided for in 15-23-503, 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

History: En. Sec. 6, Ch. 237, L. 1921; re-en. Sec. 2094, R.C.M. 1921; re-en. Sec. 2094, R.C.M. 1935; amd. Sec. 201, Ch. 516, L. 1973; R.C.M. 1947, 84-5412; amd. Sec. 10, Ch. 531, L. 1989; amd. Sec. 11, Ch. 695, L. 1991; amd. Sec. 10, Ch. 506, L. 1993; amd. Sec. 10, Ch. 397, L. 1995.

15-23-522. Surface ground and improvements not exempt. Nothing in this part must be construed so as to exempt from taxation the surface ground, improvements, buildings, erections, structures, or machinery placed upon any mine or mining claim or used in connection therewith or supplies used either in mills, reduction works, or mines.

History: En. Sec. 8, Ch. 237, L. 1921; re-en. Sec. 2096, R.C.M. 1921; re-en. Sec. 2096, R.C.M. 1935; R.C.M. 1947, 84-5414.

15-23-523. Dissolved corporations to make returns on net proceeds of mines and pay tax accrued. Every corporation which shall be dissolved or cease to do business in this state during any taxpaying year shall make all statements, reports, and returns required by law to be made with reference to the net proceeds of mines and pay the tax due for such period as it transacted business on or before the date of such dissolution or cessation of business. The department of revenue may grant a reasonable extension of time for filing a return upon good cause shown therefor.

History: En. Sec. 1, Ch. 10, L. 1941; amd. Sec. 202, Ch. 516, L. 1973; R.C.M. 1947, 84-5415.

Part 6
Oil and Gas Net Proceeds
(Repealed)

15-23-601. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 1, Ch. 135, L. 1955; amd. Sec. 21, Ch. 52, L. 1977; amd. Sec. 18, Ch. 98, L. 1977; R.C.M. 1947, 84-6201; amd. Sec. 1, Ch. 525, L. 1981; amd. Sec. 1, Ch. 695, L. 1985; amd. Sec. 10, Ch. 655, L. 1987; amd. Sec. 1, Ch. 267, L. 1991; amd. Sec. 2, Ch. 9, Sp. L. November 1993.

15-23-602. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 2, Ch. 135, L. 1955; amd. Sec. 1, Ch. 159, L. 1969; amd. Sec. 117, Ch. 405, L. 1973; amd. Sec. 19, Ch. 98, L. 1977; R.C.M. 1947, 84-6202; amd. Sec. 1, Ch. 425, L. 1981; amd. Sec. 2, Ch. 525, L. 1981; amd. Sec. 3, Ch. 606, L. 1983; amd. Sec. 2, Ch. 695, L. 1985; amd. Sec. 11, Ch. 655, L. 1987; amd. Sec. 73, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 267, L. 1991; amd. Sec. 3, Ch. 9, Sp. L. November 1993.

15-23-603. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 3, Ch. 135, L. 1955; amd. Sec. 230, Ch. 516, L. 1973; amd. Sec. 20, Ch. 98, L. 1977; R.C.M. 1947, 84-6203; amd. Sec. 2, Ch. 425, L. 1981; amd. Sec. 3, Ch. 525, L. 1981; amd. Sec. 3, Ch. 383, L. 1983; amd. Sec. 1, Ch. 642, L. 1985; amd. Sec. 3, Ch. 695, L. 1985; amd. Sec. 2, Ch. 724, L. 1985; amd. Sec. 12, Ch. 655, L. 1987; amd. Sec. 74, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 267, L. 1991; amd. Sec. 8, Ch. 597, L. 1991; amd. Sec. 4, Ch. 9, Sp. L. November 1993.

15-23-604. Repealed. Sec. 94, Ch. 11, Sp. L. June 1989.

History: En. Sec. 4, Ch. 135, L. 1955; amd. Sec. 231, Ch. 516, L. 1973; amd. Sec. 5, Ch. 256, L. 1977; R.C.M. 1947, 84-6204(part); amd. Sec. 2, Ch. 642, L. 1985; amd. Sec. 13, Ch. 655, L. 1987.

15-23-605. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 5, Ch. 135, L. 1955; amd. Sec. 232, Ch. 516, L. 1973; amd. Sec. 68, Ch. 566, L. 1977; R.C.M. 1947, 84-6205; amd. Sec. 3, Ch. 425, L. 1981; amd. Sec. 4, Ch. 525, L. 1981; amd. Sec. 4, Ch. 383, L. 1983; amd. Sec. 4, Ch. 695, L. 1985; amd. Sec. 14, Ch. 655, L. 1987; amd. Sec. 11, Ch. 83, L. 1989; amd. Sec. 75, Ch. 11, Sp. L. June 1989.

15-23-606. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 6, Ch. 135, L. 1955; amd. Sec. 233, Ch. 516, L. 1973; R.C.M. 1947, 84-6206.

15-23-607. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 8, Ch. 135, L. 1955; amd. Sec. 1, Ch. 80, L. 1963; amd. Sec. 235, Ch. 516, L. 1973; amd. Sec. 6, Ch. 256, L. 1977; R.C.M. 1947, 84-6208; amd. Sec. 5, Ch. 695, L. 1985; amd. Sec. 15, Ch. 655, L. 1987; amd. Sec. 76, Ch. 11, Sp. L. June 1989; amd. Sec. 4, Ch. 267, L. 1991; amd. Sec. 2, Ch. 711, L. 1991; amd. Sec. 4, Ch. 790, L. 1991; amd. Sec. 5, Ch. 9, Sp. L. November 1993; amd. Sec. 99, Ch. 27, Sp. L. November 1993.

15-23-608. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 13, Ch. 135, L. 1955; amd. Sec. 2, Ch. 159, L. 1969; R.C.M. 1947, 84-6213.

15-23-609. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 11, Ch. 135, L. 1955; amd. Sec. 237, Ch. 516, L. 1973; R.C.M. 1947, 84-6211.

15-23-610. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 12, Ch. 135, L. 1955; amd. Sec. 238, Ch. 516, L. 1973; R.C.M. 1947, 84-6212.

15-23-611. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 14, Ch. 135, L. 1955; R.C.M. 1947, 84-6214.

15-23-612. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. 84-2213 by Sec. 2, Ch. 256, L. 1977; R.C.M. 1947, 84-2213(part); amd. Sec. 16, Ch. 655, L. 1987; amd. Sec. 6, Ch. 9, Sp. L. November 1993.

15-23-613. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 11, Ch. 695, L. 1985; amd. Sec. 17, Ch. 655, L. 1987; amd. Sec. 5, Ch. 267, L. 1991; amd. Sec. 7, Ch. 9, Sp. L. November 1993.

15-23-614. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 8, Ch. 9, Sp. L. November 1993.

15-23-615. Repealed. Sec. 94, Ch. 11, Sp. L. June 1989.
History: En. Sec. 1, Ch. 383, L. 1983.

15-23-616. Repealed. Sec. 94, Ch. 11, Sp. L. June 1989.
History: En. Sec. 2, Ch. 383, L. 1983; amd. Sec. 43, Ch. 370, L. 1987.

15-23-617 through 15-23-620 reserved.

15-23-621. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 18, Ch. 655, L. 1987; amd. Sec. 6, Ch. 267, L. 1991.

15-23-622 through 15-23-630 reserved.

15-23-631. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 1, Ch. 536, L. 1989.

Part 7
Coal Gross Proceeds

Part Cross-References
Classification and taxable percentage of coal gross proceeds, 15-6-132.
Coal severance tax, Title 15, ch. 35.

15-23-701. Reporting gross yield from coal. Each person engaged in mining coal must, on or before March 31 each year, file with the department of revenue a statement of the gross yield from each coal mine owned or worked by the person in the preceding calendar year and the value of the coal. The statement must be in the form prescribed by the department, which may be coordinated with the form used under 15-35-104 and must be verified by an officer of the firm. The statement must include:

(1) the name and address of the owner or lessee or operator of the mine;

(2) the location of the mine;

(3) the tons of coal extracted, treated, and sold from the mine during the tax period;

(4) the gross yield or value in dollars and cents derived from the contract sales price as defined in 15-35-102.

History: En. 84-1320 by Sec. 9, Ch. 525, L. 1975; amd. Sec. 3, Ch. 156, L. 1977; R.C.M. 1947, 84-1320; (2)En. Sec. 2, Ch. 326, L. 1983; amd. Sec. 44, Ch. 370, L. 1987; amd. Sec. 1, Ch. 433, L. 2009.

Cross-References
Due date of report, 15-23-103.
Transmission of value to counties, 15-23-106.

15-23-702. Entry of gross proceeds in property tax record. On or before July 1 each year, the department shall enter the valuation of the gross proceeds of coal mines in the property tax record for each county in which the mines are located.

History: En. 84-1321 by Sec. 10, Ch. 525, L. 1975; R.C.M. 1947, 84-1321; amd. Sec. 100, Ch. 27, Sp. L. November 1993.

15-23-703. Taxation of gross proceeds — taxable value for nontax purposes. (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b) and except as provided in subsection (1)(c), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding surface or underground mine as provided in 15-23-715, the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by the percentage amount of the tax abated by the county under 15-23-715.

(c) (i) For tax years beginning after December 31, 2011, the tax on coal mined from a new underground coal mine is 2.5% against the value of coal as provided in 15-23-701(4).

(ii) For tax years beginning on or after January 1, 2011, and ending December 31, 2030, the tax rate under subsection (1)(c)(i) applies to coal mined from an existing underground coal mine producing coal from the mine as of December 31, 2010. For tax years beginning after December 31, 2030, coal production is taxed as provided in subsection (1)(a).

(2) For all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(4) If there is a distribution of coal gross proceeds from a new or expanding surface or underground mine with a tax abatement as provided under 15-23-715, the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

(5) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (3)(b)(i), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year.

(b) If the allocation in subsection (5)(a) exceeds the total budget of a taxing unit, the commissioners may direct the county treasurer to reallocate the excess to any taxing unit within the county.

(6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year.

(b) If the allocation under subsection (6)(a) exceeds the total budget for a fund, the trustees may reallocate the excess to any budgeted fund of the school district.

(7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

(9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6).

History: En. 84-1322 by Sec. 11, Ch. 525, L. 1975; R.C.M. 1947, 84-1322; amd. Sec. 77, Ch. 11, Sp. L. June 1989; amd. Sec. 1, Ch. 610, L. 1991; amd. Sec. 2, Ch. 641, L. 1991; amd. Sec. 3, Ch. 711, L. 1991; amd. Sec. 5, Ch. 790, L. 1991; amd. Sec. 101, Ch. 27, Sp. L. November 1993; amd. Sec. 3, Ch. 318, L. 1995; amd. Sec. 1, Ch. 22, L. 1997; amd. Sec. 62, Ch. 42, L. 1997; amd. Sec. 27, Ch. 29, L. 2001; amd. Sec. 22, Ch. 114, L. 2003; amd. Sec. 2, Ch. 433, L. 2009; amd. Sec. 4, Ch. 476, L. 2009; amd. Sec. 25, Ch. 128, L. 2011; amd. Sec. 1, Ch. 406, L. 2011; amd. Sec. 1, Ch. 331, L. 2019; amd. Sec. 1, Ch. 355, L. 2019.

15-23-704. Lien of tax — enforcement of payment. The tax on gross proceeds from coal must be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a lien upon the coal mine and a prior lien upon all personal property and improvements used to produce the coal. Unless suspended under the provisions of 15-23-708, taxes may be collected by the seizure and sale of the property used as collateral in consideration of a payment plan and personal property on which the tax is a lien as provided under 15-16-119 and 15-17-911.

History: En. 84-1323 by Sec. 12, Ch. 525, L. 1975; R.C.M. 1947, 84-1323; amd. Sec. 50, Ch. 587, L. 1987; amd. Sec. 102, Ch. 27, Sp. L. November 1993; amd. Sec. 20, Ch. 145, L. 2021.

Cross-References

Lien for payment of coal severance tax, 15-35-105.

15-23-705. Repealed. Sec. 3, Ch. 264, L. 2009.

History: En. Sec. 1, Ch. 641, L. 1991.

15-23-706. Repealed. Sec. 3, Ch. 264, L. 2009.

History: En. Sec. 3, Ch. 641, L. 1991; amd. Sec. 63, Ch. 42, L. 1997.

15-23-707. Repealed. Sec. 3, Ch. 264, L. 2009.

History: En. Sec. 4, Ch. 641, L. 1991; amd. Sec. 64, Ch. 42, L. 1997.

15-23-708. Suspension of collection of coal gross proceeds taxes, interest, and penalties — local government discretion — payment plan. (1) After receiving written consent from the department, the governing body of a county or consolidated local government unit may suspend collection of delinquent coal gross proceeds taxes, interest, and penalties and enter into a payment plan that allows a coal producer to make installment payments of the delinquent coal gross proceeds taxes, interest, and penalties.

(2) The suspension must be in the best interest of the people of the county or consolidated local government. The governing body may refuse to suspend delinquent coal gross proceeds taxes, interest, and penalties if it determines that the suspension is not in the best interest of the county.

(3) In order for the governing body to grant a suspension and allow installment payments pursuant to this section, after receiving written consent from the department it shall adopt a resolution:

(a) providing notice, as set forth in 7-1-2121;

(b) holding a public hearing; and

(c) notifying the governor's office of budget and program planning and the department of revenue about a proposed action to suspend delinquent coal gross proceeds taxes, interest, and penalties.

(4) The governor's office of budget and program planning and the department of revenue shall consult with the governing body regarding the impact on programs that would result from the proposed granting of the suspension, and the governing body shall consider the information before reaching a final decision.

(5) The resolution must state that the suspension is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the coal gross proceeds taxpayer as required by the local government.

(6) Any taxing authority affected by the suspension may issue gross proceeds obligations under Title 7, chapter 6, part 11. The governing body of a county or consolidated local government unit may require a coal producer to pledge additional collateral to secure payment as consideration for a payment plan.

History: En. Sec. 1, Ch. 145, L. 2021.

15-23-709. Application of suspension and installment arrangement. The suspension of delinquent coal gross proceeds taxes pursuant to 15-23-708 applies to the portion allocated to the state, county, and school district shares in the same manner as the distributions are calculated in 15-23-703.

History: En. Sec. 2, Ch. 145, L. 2021.

15-23-710 through 15-23-714 reserved.

15-23-715. New or expanding mines — tax abatement — definition. (1) A county may abate taxation under this chapter for production from a new or expanding surface or underground coal mine that is taxed at the rate provided in 15-23-703(1)(a) by 50% or less for 5 or 10 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

(2) An abatement must be authorized by the governing body of a county. Before an abatement authorization is effective, the school boards of all affected school districts must be notified of the abatement. The authorization must be made by a resolution of the county governing body after a public hearing. The county governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first publication may be no more than 30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

(3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that period, it may be authorized for one more 5-tax-year period. The abatement of taxation for the second 5-tax-year period may be 50% or less. An abatement authorization must be made prior to the beginning of the property tax year in which abatement is in effect. The department must be notified of each abatement authorization prior to the beginning of the tax year.

(4) (a) Production from a new surface or underground mine is all production from a mine that in the year prior to the tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding surface or underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement.

(5) For the purpose of 15-23-703 and this section, "surface mine" means coal mining using any method other than underground mining.

History: En. Sec. 1, Ch. 476, L. 2009; amd. Sec. 2, Ch. 406, L. 2011; amd. Sec. 2, Ch. 331, L. 2019.

15-23-716. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 1, Ch. 15, Sp. L. July 1992; amd. Sec. 2, Ch. 455, L. 1993.

Part 8
Metal Mines Gross Proceeds

Part Cross-References

Classification and taxable percentage for metal mines gross proceeds, 15-6-132.
Mining license taxes, Title 15, ch. 37.

15-23-801. Definitions. As used in this part, the following definitions apply:

(1) "Agreement not at arm's length" means an agreement between parties when the sales price does not represent market value.

(2) "Basic treatment and refinery charges" means the costs or charges incurred in the smelting, refining, or other treatment of ore and includes:

(a) labor costs, including wages, salaries, and fringe benefits;

(b) utility and fuel costs;

(c) costs of maintenance, repairs, and supplies;

(d) costs of materials;

(e) depreciation computed on a straight-line basis with a 20-year life for buildings and improvements and a 7-year life for all other depreciable assets;

(f) equipment and machinery rental;

(g) costs of pollution control, environmental testing, and slag removal;

(h) costs incurred for training, freight, engineering services, insurance, and license fees directly attributable to smelting or refining;

(i) administrative services in Montana, including that portion of accounting, laboratory, purchasing, human resources, and warehouse allocable to smelting or refining; and

(j) any costs, charges, or fees paid by the mining company to other persons or entities for treating or processing ore, concentrate, dore, bullion, matte, or other form of processed concentrate.

(3) "Gross proceeds" or "gross metal yield" or "gross value of product" means the receipts realized from the extraction and sale of metals or concentrate containing metals.

(4) "Merchantable value" means the receipts of all salable metals produced or extracted in a county over a 12-month period. If the extracted ores are milled, smelted, or reduced by the taxpayer, then the merchantable value in the county in which they are extracted is the receipts received for these metals after processing.

(5) "Receipts received" means the monetary payment or refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting the following:

(a) basic treatment and refinery charges;

(b) costs of transporting the mineral product from the mine or mill to the smelter or other processor, including costs of demurrage, storage, interest, and other miscellaneous costs related to transporting the mineral product;

(c) quantity deductions;

(d) price deductions;

(e) interest; and

(f) penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery.

History: En. 84-7901 by Sec. 7, Ch. 498, L. 1977; R.C.M. 1947, 84-7901; amd. Sec. 1, Ch. 672, L. 1989; amd. Sec. 1, Ch. 524, L. 1999; amd. Sec. 1, Ch. 342, L. 2003.

Cross-References

Minerals as real estate, 15-1-101.

15-23-802. Metal mines — ad valorem taxation — reports and sampling. (1) Each person mining or extracting gold, silver, copper, lead, or other metals from any mine or mining property located within this state must, on or before March 31 each year, file with the department of revenue a statement of the gross metal yield from each mine or mining property owned or worked by such person in the preceding calendar year and the value thereof. The statement shall be in the form prescribed by the department and shall contain the following:

(a) the name, address, and telephone number of the owner, lessee, or operator of the mine or mining property;

(b) the mine's location by county and legal description;

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which such ore, concentrate, or other mineral products or deposits have been shipped or sold during the period covered by the statement;

(e) the gross yield of such ores, concentrates, mineral products, or deposits in constituents of commercial value; that is, the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of such ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the gross value of product in dollars and cents; and

(g) any other information requested by the department.

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore, concentrate, or other mineral products or deposits are shipped.

(3) Any sampling, testing, or assaying made necessary to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

History: En. 84-7902 by Sec. 8, Ch. 498, L. 1977; R.C.M. 1947, 84-7902; amd. Sec. 1, Ch. 288, L. 1981.

15-23-803. Valuation — gross proceeds. On or before July 1 each year, the department shall determine the merchantable value of all metal production from the previous calendar year. The department shall record the merchantable value in the property tax record after subtracting the portion of the proceeds exempt from property taxation.

History: En. 84-7903 by Sec. 9, Ch. 498, L. 1977; R.C.M. 1947, 84-7903; amd. Sec. 103, Ch. 27, Sp. L. November 1993.

15-23-804. Taxation of merchantable value. The department shall prepare from the reported valuation a tax roll that must be transmitted to the county treasurer on or before September 15 each year. The county treasurer shall proceed to give full notice to each metal producer and to collect the taxes due at the times provided for in 15-16-102, and any delinquencies in the payment of the taxes are subject to the interest and penalties provided for in 15-16-102.

History: En. 84-7904 by Sec. 10, Ch. 498, L. 1977; R.C.M. 1947, 84-7904; amd. Sec. 104, Ch. 27, Sp. L. November 1993.

15-23-805. Imputed value — procedure for metals. If there is no sale or the sale is by an agreement not at arm's length or no statement is filed, the department shall impute the merchantable value of the metal. When imputing value, the department shall consider all appropriate market information available. When the imputed value is contested in any proceedings, the burden of proof is with the contesting party.

History: En. 84-7905 by Sec. 11, Ch. 498, L. 1977; R.C.M. 1947, 84-7905.

15-23-806. Lien of tax. The tax or penalty on gross proceeds is a lien upon the mine from which the metal is extracted and is a prior lien upon all owned or leased personal property and improvements used in extracting the ore or metal. The tax shall be collected in the manner provided in chapters 16, 17, and 18 of this title.

History: En. 84-7906 by Sec. 12, Ch. 498, L. 1977; R.C.M. 1947, 84-7906; amd. Sec. 12, Ch. 581, L. 1979.

15-23-807. Assessment procedures. The gross proceeds of metal mines shall be assessed under the provisions of 15-23-101 through 15-23-107.

History: En. 84-7907 by Sec. 13, Ch. 498, L. 1977; R.C.M. 1947, 84-7907; amd. Sec. 13, Ch. 581, L. 1979.

CHAPTER 24
SPECIAL PROPERTY TAX APPLICATIONS

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15-24-906. Collection of fee on livestock.
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15-24-908. Repealed.
15-24-909. Repealed.
15-24-910. Repealed.
15-24-911. Repealed.
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15-24-920. Repealed.
15-24-921. Per capita fee to pay expenses of enforcing livestock laws.
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15-24-923. Repealed.
15-24-924. Repealed.
15-24-925. Reimbursement to department — transmission of fees to state.
15-24-926. Repealed.
15-24-927. Repealed.
15-24-928 through 15-24-930 reserved.
15-24-931. Repealed.
15-24-932 through 15-24-940 reserved.
15-24-941. Repealed.
15-24-942. Repealed.
15-24-943. Repealed.

Part 10 — Custom Combines (Renumbered)

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15-24-1102. Federal property held under contract of sale.
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15-24-1104. Collection of taxes on interests in United States lands.

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15-24-1202. Taxable interests in state and other exempt property — assessment.
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15-24-1402. New or expanding industry — assessment — notification.
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15-24-1901. Definitions.
15-24-1902. Industrial park tax exemption — procedure — termination.

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Part 21 — Abatement of Commercial or Industrial Property Taxes (Repealed)

Part 22 reserved

Part 23 — Clean Coal Technology Projects (Repealed)

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Part 25 — Trucks and Truck Tractors (Repealed)

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15-24-3001. Repealed.
15-24-3002. Repealed.
15-24-3003 reserved.
15-24-3004. Wind generation facility impact fee for local governmental units and school districts.
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15-24-3101. Policy.
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15-24-3103 through 15-24-3110 reserved.
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15-24-3113 through 15-24-3115 reserved.
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Part 32 — Gray Water Systems (Repealed)

Part 1
Motor Vehicle Fleets
(Repealed)

15-24-101. Repealed. Sec. 41, Ch. 496, L. 1997.

History: En. Sec. 1, Ch. 89, L. 1965; amd. Sec. 16, Ch. 516, L. 1973; R.C.M. 1947, 84-727; amd. Sec. 14, Ch. 614, L. 1981; amd. Sec. 8, Ch. 611, L. 1987; amd. Sec. 1, Ch. 615, L. 1989; amd. Sec. 24, Ch. 10, L. 1993; amd. Sec. 1, Ch. 39, L. 1993.

15-24-102. Repealed. Sec. 41, Ch. 496, L. 1997.

History: En. Sec. 2, Ch. 89, L. 1965; amd. Sec. 17, Ch. 516, L. 1973; amd. Sec. 54, Ch. 566, L. 1977; R.C.M. 1947, 84-728; amd. Sec. 20, Ch. 693, L. 1979; amd. Sec. 15, Ch. 614, L. 1981; amd. Sec. 25, Ch. 10, L. 1993; amd. Sec. 2, Ch. 39, L. 1993; amd. Sec. 10, Ch. 570, L. 1995.

15-24-103. Repealed. Sec. 41, Ch. 496, L. 1997.

History: En. Sec. 3, Ch. 89, L. 1965; amd. Sec. 18, Ch. 516, L. 1973; R.C.M. 1947, 84-729; amd. Sec. 16, Ch. 614, L. 1981.

15-24-104. Repealed. Sec. 41, Ch. 496, L. 1997.

History: En. Sec. 4, Ch. 89, L. 1965; amd. Sec. 19, Ch. 516, L. 1973; R.C.M. 1947, 84-730; amd. Sec. 14, Ch. 581, L. 1979; amd. Sec. 17, Ch. 614, L. 1981; amd. Sec. 105, Ch. 27, Sp. L. November 1993.

15-24-105. Repealed. Sec. 41, Ch. 496, L. 1997.

History: En. Sec. 5, Ch. 89, L. 1965; R.C.M. 1947, 84-731; amd. Sec. 18, Ch. 614, L. 1981; amd. Sec. 9, Ch. 611, L. 1987.

Part 2
Mobile Homes, Manufactured Homes, and Housetrailers

Part Cross-References

Classification and taxable percentage for mobile homes and housetrailers, 15-6-134.

15-24-201. Definitions. As used in this part, the following definitions apply:

(1) "Dealer" means a person engaged in the distribution or sale of mobile homes or manufactured homes.

(2) "Housetrailer" means a form of housing designed to be moved from one place to another by an independent power connected to the housetrailer, which is either 8 feet wide or less or 45 feet long or less.

(3) "Manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home or a housetrailer.

(4) "Mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to the mobile home or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

History: En. Sec. 1, Ch. 275, L. 1965; amd. Sec. 4, Ch. 296, L. 1967; amd. Sec. 2, Ch. 450, L. 1975; R.C.M. 1947, 84-6601; amd. Sec. 11, Ch. 200, L. 1997.

Cross-References

Definition of mobile home, 15-1-101.

Enforcement by Department of Transportation personnel, 61-12-206.

15-24-202. Payment of tax — interest and penalty — display of tax-paid sticker. (1) (a) The owner of a mobile home, manufactured home, or housetrailer that is not taxed as an improvement, as improvements are defined in 15-1-101, shall pay the personal property tax in two payments, except as provided in 10-1-606 or 15-24-206.

(b) The first payment is due on or before May 31 or within 30 days from the date of the notice of taxes due, whichever is later.

(c) The second payment is due no later than November 30 of the year in which the property is assessed.

(d) If not paid on or before the date due, the tax is considered delinquent and subject to the penalty and interest provisions in 15-16-102 applicable to other delinquent property taxes. The penalty must be assessed and interest begins to accrue on the first day of delinquency.

(2) Upon request, the treasurer shall notify a lienholder if taxes on a mobile home, manufactured home, or housetrailer have not been paid.

(3) Taxes assessed against a mobile home, manufactured home, or housetrailer after the second payment date must be prorated to reflect the remaining portion of the tax year. The prorated taxes must be added to the following year's tax roll and, except as provided in 15-24-206, are due with and must be collected with the first payment due in that year.

(4) The department shall issue tax-paid stickers to the county treasurers. A treasurer shall issue a tax-paid sticker to the owner of a mobile home, manufactured home, or housetrailer that is to be moved and on which all taxes, interest, and penalties have been paid in full unless the exceptions in 15-24-206(3), 15-24-209, or 15-24-212 apply. Prior to and while in the process of moving the mobile home, manufactured home, or housetrailer, the owner shall display the tax-paid sticker, which must be visible from the exterior of the mobile home, manufactured home, or housetrailer.

(5) A mobile home, manufactured home, or housetrailer movement declaration of destination provided for in 15-24-206 may not be issued unless:

(a) the taxes have been paid in full to the county treasurer; or

(b) the exceptions in 15-24-206(3), 15-24-209, or 15-24-212 apply.

(6) On the movement of a mobile home, manufactured home, or housetrailer in violation of this part, the county treasurer for the county where the mobile home, manufactured home, or housetrailer first comes to rest shall issue a written notice to the owner, showing the amount of delinquent taxes, special assessments, penalties, and interest due. In addition to the penalties provided in 15-16-102, 20% or $50, whichever is greater, must be added to the delinquent taxes as penalty for violation of this part. On receipt of the delinquent taxes, special assessments, penalties, and interest, the county treasurer shall forward all delinquent taxes, special assessments, penalties, and interest collected under 15-16-102 to the county treasurer for the county of origin. The county of destination shall retain the penalty.

History: En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2684, Rev. C. 1907; re-en. Sec. 2239, R.C.M. 1921; Cal. Pol. C. Sec. 3821; amd. Sec. 2, Ch. 102, L. 1923; re-en. Sec. 2239, R.C.M. 1935; amd. Sec. 1, Ch. 107, L. 1939; amd. Sec. 2, Ch. 23, L. 1951; amd. Sec. 1, Ch. 166, L. 1955; amd. Sec. 1, Ch. 165, L. 1963; amd. Sec. 83, Ch. 405, L. 1973; amd. Sec. 1, Ch. 162; amd. Sec. 1, Ch. 475, L. 1975; amd. Sec. 1, Ch. 105, L. 1977; R.C.M. 1947, 84-4202(5)(a); amd. Sec. 15, Ch. 581, L. 1979; amd. Sec. 1, Ch. 159, L. 1981; amd. Sec. 1, Ch. 47, L. 1985; amd. Sec. 1, Ch. 360, L. 1987; amd. Sec. 1, Ch. 419, L. 1987; amd. Sec. 1, Ch. 238, L. 1989; amd. Sec. 1, Ch. 557, L. 1991; amd. Sec. 12, Ch. 200, L. 1997; amd. Sec. 3, Ch. 587, L. 2005; amd. Sec. 3, Ch. 50, L. 2013; amd. Sec. 1, Ch. 36, L. 2019; amd. Sec. 5, Ch. 14, L. 2021.

Cross-References

Migratory personal property, 15-24-302.

Enforcement by Department of Transportation personnel, 61-12-206.

15-24-203. Tax receipt — when production required. If stopped on a highway or at a state vehicle weight station by a state highway patrol officer or state vehicle weight station attendant, a person transporting a mobile home, manufactured home, or housetrailer shall produce, if requested, the property-tax-paid receipt or a duplicate issued by the county treasurer where the vehicle was taxed.

History: En. Sec. 3, Ch. 275, L. 1965; R.C.M. 1947, 84-6603; amd. Sec. 16, Ch. 581, L. 1979; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 13, Ch. 200, L. 1997.

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-24-204. Failure to display or produce declaration, sticker, or receipt — penalty. (1) Whoever makes a false or fraudulent declaration of destination or, when required, fails to execute a declaration of destination or fails to display or produce a declaration of destination or tax-paid receipt, if a tax-paid receipt is required, is guilty of a misdemeanor and upon conviction is punishable by imprisonment in a county jail for not more than 6 months or by a fine of not more than $500, or both.

(2) Whoever fails to display a property-tax-paid sticker while in the process of moving a mobile home, manufactured home, or housetrailer or to produce a property-tax-paid receipt from 15 days after the due date for personal property taxes of 1 year to the due date for personal property taxes of the next year, when the display of a tax-paid receipt is required, commits a misdemeanor punishable by a fine of not less than $10 or more than $50 or confinement in the county jail for not more than 30 days or both a fine and imprisonment.

History: En. Sec. 4, Ch. 275, L. 1965; amd. Sec. 7, Ch. 296, L. 1967; amd. Sec. 3, Ch. 450, L. 1975; R.C.M. 1947, 84-6604; amd. Sec. 2, Ch. 419, L. 1987; amd. Sec. 2, Ch. 238, L. 1989; amd. Sec. 14, Ch. 200, L. 1997.

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-24-205. Sections limited to taxable trailers and manufactured homes. The provisions of this part apply only to those mobile homes, manufactured homes, and housetrailers, as defined in this part, subject to assessment and taxation under chapter 8, part 2, and 15-24-301.

History: En. Sec. 5, Ch. 275, L. 1965; amd. Sec. 8, Ch. 296, L. 1967; R.C.M. 1947, 84-6605; amd. Sec. 15, Ch. 200, L. 1997.

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-24-206. Declaration of destination on imported mobile homes, manufactured homes, and housetrailers — display — tax receipt — exemptions. (1) A person who brings a mobile home, manufactured home, or housetrailer into the state shall immediately upon arrival in the state execute a written declaration, verified under oath, stating the destination of the mobile home, manufactured home, or housetrailer and any other information the department

of revenue may require and shall deliver the original of the declaration to whomever is on duty at the nearest port of entry station, state vehicle weight station, or other place the department may prescribe. The person shall also immediately upon arrival in the state affix a copy of the declaration to the mobile home, manufactured home, or housetrailer at a conspicuous place.

(2) The treasurer shall issue the mobile home, manufactured home, or housetrailer movement declaration provided for in this section to a person required by this section to execute it, in quantities the person requests to a maximum of 100. The treasurer shall issue additional quantities of the declaration to a maximum of 100 as the person requests at the discretion of the county treasurer upon receipt from the person of the previously issued declarations properly executed. Executed declarations must be delivered to the treasurer within 30 days from their issue.

(3) A person who moves a mobile home, manufactured home, or housetrailer from a point within the state to another point within or outside of the state shall first:

(a) execute the declaration provided for in subsection (1), deliver the original of it to the treasurer of the county in which the move originates or to any other person the department prescribes, and affix a copy of it in a conspicuous place on the mobile home, manufactured home, or housetrailer to be moved;

(b) obtain from the county treasurer of the county in which the move originates a receipt showing:

(i) payment in full of property taxes with respect to that mobile home, manufactured home, or housetrailer; or

(ii) payment of the property taxes provided for in 15-24-209.

(4) The provisions of subsection (3)(b) do not apply whenever a person moves a mobile home, manufactured home, or housetrailer:

(a) from a point outside of to a point within the state;

(b) between places of business of dealers within or outside of the state;

(c) from the place of business of a dealer to a point within or outside of the state; or

(d) pursuant to the repossession of a mobile home, manufactured home, or housetrailer, unless the treasurer has furnished the lienholder or secured party with timely notice of the delinquent tax due when information has been requested under 15-24-202(2).

History: **(1), (3), (4)En. Sec. 5, Ch. 296, L. 1967; amd. Sec. 250, Ch. 516, L. 1973; Sec. 84-6606, R.C.M. 1947; (2)En. Sec. 1, Ch. 119, L. 1903; re-en. Sec. 2684, Rev. C. 1907; re-en. Sec. 2239, R.C.M. 1921; Cal. Pol. C. Sec. 3821; amd. Sec. 2, Ch. 102, L. 1923; re-en. Sec. 2239, R.C.M. 1935; amd. Sec. 1, Ch. 107, L. 1939; amd. Sec. 2, Ch. 23, L. 1951; amd. Sec. 1, Ch. 166, L. 1955; amd. Sec. 1, Ch. 165, L. 1963; amd. Sec. 83, Ch. 405, L. 1973; amd. Sec. 1, Ch. 162; amd. Sec. 1, Ch. 475, L. 1975; amd. Sec. 1, Ch. 105, L. 1977; Sec. 84-4202, R.C.M. 1947; R.C.M. 1947, 84-4202(5)(b), 84-6606; amd. Sec. 17, Ch. 581, L. 1979; amd. Sec. 2, Ch. 557, L. 1991; amd. Sec. 16, Ch. 200, L. 1997; amd. Sec. 2, Ch. 36, L. 2019.**

15-24-207. Department to make rules. The department of revenue may make reasonable rules necessary for or as an aid to effectuation of the purposes of this part.

History: **En. Sec. 6, Ch. 296, L. 1967; amd. Sec. 251, Ch. 516, L. 1973; R.C.M. 1947, 84-6607.**

15-24-208. Penalty for moving mobile home, manufactured home, or housetrailer on which taxes due. Any person who moves a mobile home, manufactured home, or housetrailer on which property taxes are unpaid is guilty of a misdemeanor.

History: **En. 84-6608 by Sec. 1, Ch. 250, L. 1977; R.C.M. 1947, 84-6608; amd. Sec. 17, Ch. 200, L. 1997; amd. Sec. 3, Ch. 36, L. 2019.**

Cross-References

Misdemeanor penalty, 46-18-212.

15-24-209. Limit on delinquent mobile home, manufactured home, or housetrailer taxes chargeable to security interest holder. The holder of a perfected security interest in a mobile home, manufactured home, or housetrailer who repossesses the mobile home, manufactured home, or housetrailer as provided by law and as authorized in the contract between the owner and the secured party may not be required to pay delinquent property taxes for more than 3 years as a condition of moving the mobile home, manufactured home, or housetrailer or transferring it to another person. Any additional delinquent taxes due upon the mobile home, manufactured home, or housetrailer are a lien upon any other personal or real property of the person who was required by law to pay the delinquent taxes at the time the taxes were due.

History: **En. Sec. 3, Ch. 557, L. 1991; amd. Sec. 18, Ch. 200, L. 1997.**

15-24-210. Notice of impending sale to certain lienholders. After entry of a notation by a county treasurer concerning a mobile home, manufactured home, or housetrailer that is not taxed as an improvement to real property but before directing the sheriff to make a levy and sale on the mobile home, manufactured home, or housetrailer, the treasurer shall notify a person who has a properly perfected security interest in the mobile home, manufactured home, or housetrailer and who has furnished the treasurer a copy of the instrument by which the interest was perfected of the levy and sale. The notice must state that the sheriff may soon be requested to make a levy and sale on the mobile home, manufactured home, or housetrailer.

History: En. Sec. 4, Ch. 557, L. 1991; amd. Sec. 19, Ch. 200, L. 1997; amd. Sec. 2, Ch. 189, L. 2005; amd. Sec. 4, Ch. 36, L. 2019.

15-24-211. Mobile home, manufactured home, or housetrailer — transfer of interest. (1) Upon transfer of any interest in a mobile home, manufactured home, or housetrailer, the application for the transfer must be made through the county treasurer's office in the county in which the mobile home, manufactured home, or housetrailer is located at the time of the transfer. The county treasurer may not accept the application unless all taxes, interest, and penalties that have been assessed on the mobile home, manufactured home, or housetrailer have been paid in full or canceled pursuant to 15-24-212.

(2) When a mobile home, manufactured home, or housetrailer is sold under the contract conditions that title is not immediately conveyed, the parties to the transaction shall immediately file with the county clerk and recorder a notice of intention to transfer the title. The notice must indicate the name of the party who is responsible for payment of taxes on the mobile home, manufactured home, or housetrailer after the transfer. The clerk and recorder shall immediately notify the department of the information in the notice.

History: En. Sec. 1, Ch. 50, L. 2013; amd. Sec. 5, Ch. 36, L. 2019.

15-24-212. Cancellation of delinquent property taxes on mobile home or housetrailer. (1) The board of county commissioners may order the cancellation of delinquent property taxes on a mobile home or housetrailer if the mobile home or housetrailer is to be moved for the purposes of destruction or recycling.

(2) An order made under subsection (1) must be included in the board's minutes. The order must include:

(a) the name and address of the delinquent taxpayer;

(b) the physical address or location of the mobile home or housetrailer;

(c) the amount of the delinquent taxes, plus interest, penalties, and costs, if any;

(d) the date the taxes became delinquent; and

(e) the taxpayer identification number.

(3) One copy of the order must be recorded with the county clerk and recorder as a public record, and one copy of the order must be filed with the county treasurer as a permanent record of the treasurer's office.

History: En. Sec. 2, Ch. 50, L. 2013.

Part 3
Migratory Personal Property

15-24-301. Personal property brought into state — assessment — exceptions — custom combine equipment. (1) Except as provided in subsections (2) through (6), the following property is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) personal property, excluding livestock, brought into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property belonging to an owner or user who is engaged in a gainful occupation or business enterprise in the state; or

(c) property that becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in another county of the state.

(3) This section does not levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Except as provided in 15-6-217, a motor vehicle that is brought into this state by a nonresident person temporarily employed in Montana and used exclusively for transportation of the person is subject to registration under 61-3-701.

(5) Agricultural harvesting machinery classified as class eight property under 15-6-138, licensed in another state, and operated on the land of a person other than the owner of the machinery under a contract for hire is subject to a fee in lieu of tax of $35 for each machine for the calendar year in which the fee is collected. The machinery is subject to taxation under 15-6-138 only if the machinery is sold in Montana.

(6) This section does not levy a tax on farm implements as defined in 30-11-801 or construction equipment as defined in 30-11-901 that is brought into the state under a purchase incentive rental program as defined in 15-6-202(4). The property is subject to taxation under 15-6-138 only if the property is sold in Montana or otherwise disposed of in the state.

History: **En. Sec. 1, Ch. 41, L. 1953; amd. Sec. 4, Ch. 290, L. 1967; amd. Sec. 1, Ch. 370, L. 1974; amd. Sec. 65, Ch. 566, L. 1977; R.C.M. 1947, 84-6008; amd. Sec. 1, Ch. 603, L. 1979; amd. Sec. 21, Ch. 693, L. 1979; amd. Sec. 6, Ch. 598, L. 1981; amd. Sec. 4, Ch. 613, L. 1981; amd. Sec. 19, Ch. 614, L. 1981; amd. Sec. 1, Ch. 48, L. 1983; amd. Sec. 9, Ch. 516, L. 1985; amd. Sec. 10, Ch. 611, L. 1987; amd. Sec. 1, Ch. 246, L. 1999; amd. Sec. 16, Ch. 285, L. 1999; amd. Sec. 8, Ch. 515, L. 1999; amd. Sec. 13, Ch. 542, L. 2005; amd. Sec. 17, Ch. 596, L. 2005; amd. Sec. 32, Ch. 2, L. 2009; amd. Sec. 3, Ch. 343, L. 2009.**

Cross-References

Applicability to mobile homes and housetrailers, 15-24-205.
Registration of foreign motor vehicles, Title 61, ch. 3, part 7.
Transportation of vehicles through state, Title 61, ch. 4, part 3.
Custom combiner's fee in lieu of taxes required under this section, 61-10-130.
Liability for per capita assessment fee on sheep, 81-7-303.

15-24-302. Collection procedure. All property mentioned in 15-24-301 is assessed at the same value as property of like kind and character, and the assessment, levy, and collection of the tax are governed by the provisions of 15-8-408, 15-16-119, 15-16-404, 15-17-911, and 15-24-202, except livestock taxation governed by 81-7-104 and Title 81, chapter 7, part 2.

History: **En. Sec. 3, Ch. 41, L. 1953; amd. Sec. 7, Ch. 260, L. 1977; R.C.M. 1947, 84-6010; amd. Sec. 18, Ch. 581, L. 1979; amd. Sec. 9, Ch. 663, L. 1979; amd. Sec. 2, Ch. 159, L. 1981; amd. Sec. 2, Ch. 598, L. 1981; amd. Sec. 51, Ch. 587, L. 1987; amd. Sec. 106, Ch. 27, Sp. L. November 1993; amd. Sec. 9, Ch. 515, L. 1999; amd. Sec. 3, Ch. 189, L. 2005; amd. Sec. 18, Ch. 596, L. 2005.**

15-24-303. Proration of tax on personal property — refund. (1) The tax on personal property brought, driven, coming into, or otherwise located in the state on or after the assessment date must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year. This section does not apply to motor vehicles taxed under Title 61, chapter 3, part 5, or to livestock subject to the per capita fee under 15-24-921.

(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613.

History: **En. Sec. 4, Ch. 41, L. 1953; amd. Sec. 8, Ch. 260, L. 1977; R.C.M. 1947, 84-6011; amd. Sec. 2, Ch. 615, L. 1989; amd. Sec. 2, Ch. 587, L. 1993; amd. Sec. 6, Ch. 576, L. 1995; amd. Sec. 17, Ch. 285, L. 1999; amd. Sec. 96, Ch. 574, L. 2001.**

15-24-304. Prorated fee in lieu of tax — aircraft. (1) A person who acquires an aircraft required to be registered under subsections (2) through (6) of 67-3-201 after March 1 in any year shall register the aircraft within 30 days of acquiring it.

(2) The fee in lieu of tax must be prorated for aircraft registered for a period less than 1 year in the same manner as personal property taxes are prorated in 15-24-303.

(3) A person failing to register an aircraft within 30 days following acquisition of the aircraft or bringing the aircraft into the state for commercial purposes is subject to the penalty provided in 67-3-202.

(4) A person owning a migratory aircraft shall register as prescribed in 67-3-201(5) and pay the fee in lieu of tax.

History: **En. 84-4218 by Sec. 3, Ch. 542, L. 1975; amd. Sec. 3, Ch. 210, L. 1977; R.C.M. 1947, 84-4218; amd. Sec. 1, Ch. 220, L. 1981; amd. Sec. 4, Ch. 157, L. 1983; amd. Sec. 7, Ch. 453, L. 1987.**

15-24-305. Taxation of motion picture and television commercial property. Except as provided in 61-3-520, property used exclusively for filming motion pictures or television commercials and that remains in the state for a period exceeding 180 consecutive days in a calendar year is subject to assessment and taxation as all other property subject to property taxation.

History: En. Sec. 2, Ch. 525, L. 1989.

Cross-References

Exemption for motion picture and television commercial property, 15-6-215.

Taxation of vehicles used exclusively in filming motion pictures or television commercials, 61-3-520.

Part 4
Business Inventories
(Repealed)

15-24-401. Repealed. Sec. 35, Ch. 581, L. 1979.

History: En. 84-422.1 by Sec. 1, Ch. 182, L. 1977; R.C.M. 1947, 84-422.1.

15-24-402. Repealed. Sec. 6, Ch. 613, L. 1981.

History: En. 84-422.2 by Sec. 1, Ch. 255, L. 1977; R.C.M. 1947, 84-422.2.

15-24-403. Repealed. Sec. 6, Ch. 613, L. 1981.

History: En. 84-422.3 by Sec. 2, Ch. 255, L. 1977; R.C.M. 1947, 84-422.3.

Part 5
Banks
(Repealed)

15-24-501. Repealed. Sec. 17, Ch. 634, L. 1979.

History: (1), (2)En. Sec. 6, Ch. 64, L. 1929; re-en. Sec. 2000.6, R.C.M. 1935; amd. Sec. 1, Ch. 172, L. 1957; amd. Sec. 1, Ch. 516, L. 1973; amd. Sec. 3, Ch. 341, L. 1975; Sec. 84-308, R.C.M. 1947; (3)En. Sec. 2, Ch. 64, L. 1929; re-en. Sec. 2000.2, R.C.M. 1935; (4)En. Sec. 3, Ch. 64, L. 1929; re-en. Sec. 2000.3, R.C.M. 1935; Sec. 84-305, R.C.M. 1947; R.C.M. 1947, 84-304, 84-305, 84-308.

15-24-502. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 1, Ch. 81, L. 1921; re-en. Sec. 2064, R.C.M. 1921; re-en. Sec. 2064, R.C.M. 1935; R.C.M. 1947, 84-4602.

15-24-503. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 2, Ch. 81, L. 1921; re-en. Sec. 2065, R.C.M. 1921; re-en. Sec. 2065, R.C.M. 1935; R.C.M. 1947, 84-4603.

15-24-504. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 3, Ch. 81, L. 1921; re-en. Sec. 2066, R.C.M. 1921; re-en. Sec. 2066, R.C.M. 1935; amd. Sec. 86, Ch. 405, L. 1973; amd. Sec. 16, Ch. 388, L. 1975; R.C.M. 1947, 84-4604.

15-24-505. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 4, Ch. 81, L. 1921; re-en. Sec. 2067, R.C.M. 1921; amd. Sec. 1, Ch. 64, L. 1927; re-en. Sec. 2067, R.C.M. 1935; amd. Sec. 87, Ch. 405, L. 1973; amd. Sec. 17, Ch. 388, L. 1975; amd. Sec. 55, Ch. 566, L. 1977; R.C.M. 1947, 84-4605.

15-24-506. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 1, Ch. 72, L. 1967; amd. Sec. 88, Ch. 405, L. 1973; amd. Sec. 18, Ch. 388, L. 1975; R.C.M. 1947, 84-4606.

15-24-507. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 9, p. 76, L. 1891; re-en. Sec. 3694, Pol. C. 1895; re-en. Sec. 2506, Rev. C. 1907; re-en. Sec. 2063, R.C.M. 1921; re-en. Sec. 2063, R.C.M. 1935; R.C.M. 1947, 84-4601.

15-24-508. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 5, Ch. 64, L. 1929; re-en. Sec. 2000.5, R.C.M. 1935; amd. Sec. 2, Ch. 25, L. 1971; amd. Sec. 1, Ch. 501, L. 1977; R.C.M. 1947, 84-307.

Part 6
Insurance Companies
(Repealed)

15-24-601. Repealed. Sec. 4, Ch. 577, L. 2003.

History: En. Sec. 1, Ch. 64, L. 1915; re-en. Sec. 2111, R.C.M. 1921; re-en. Sec. 2111, R.C.M. 1935; R.C.M. 1947, 84-5101.

15-24-602. Repealed. Sec. 4, Ch. 577, L. 2003.

History: En. Sec. 2, Ch. 64, L. 1915; re-en. Sec. 2112, R.C.M. 1921; re-en. Sec. 2112, R.C.M. 1935; R.C.M. 1947, 84-5102; amd. Sec. 2, Ch. 617, L. 1989; amd. Sec. 28, Ch. 51, L. 1999.

15-24-603. Repealed. Sec. 17, Ch. 634, L. 1979.

History: En. Sec. 1, Ch. 63, L. 1929; re-en. Sec. 2112.1, R.C.M. 1935; amd. Sec. 59, Ch. 566, L. 1977; R.C.M. 1947, 84-5103.

Part 7
Production Credit Associations

15-24-701. Production credit associations — assessment and payment. Every production credit association organized under the provisions of section 1131d of Title 12, United States Codes Annotated, shall be assessed for and pay taxes upon all real and personal property owned by such association.

History: En. Sec. 1, Ch. 35, L. 1951; amd. Sec. 113, Ch. 405, L. 1973; amd. Sec. 19, Ch. 388, L. 1975; R.C.M. 1947, 84-5801; amd. Sec. 12, Ch. 634, L. 1979.

Part 8
Building and Loan Associations

15-24-801. Savings and loan associations — taxation. Every savings and loan association subject to regulation under Title 32, chapter 2, must be assessed for and pay taxes upon all real and personal property owned by the association. The secretary of an association shall furnish to the department, within 5 days after demand, a condensed statement, verified by oath, of the resources and liabilities of the association as disclosed by its books at noon on January 1 in each year. If the secretary fails to make the statement, the department shall immediately obtain the information from any other available source, and for this purpose it shall have access to the books of the association. The department shall make an assessment of the real estate and personal property owned by the association in a manner that is as fair and equitable as it may be able to make from the best information available, or the department may, for the purpose of the assessment, adopt the figures disclosed by any prior report made by the association to any state or federal officer under a state or federal law. A person required by this section to make the statement provided for in this section who fails to furnish it is guilty of a misdemeanor.

History: En. Sec. 20, Ch. 57, L. 1927; amd. Sec. 1, Ch. 62, L. 1929; re-en. Sec. 6355.21, R.C.M. 1935; amd. Sec. 2, Ch. 391, L. 1973; amd. Sec. 1, Ch. 388, L. 1975; Sec. 7-122, R.C.M. 1947; amd. and redes. 84-7001 by Sec. 76, Ch. 431, L. 1975; R.C.M. 1947, 84-7601; amd. Sec. 13, Ch. 634, L. 1979; amd. Sec. 107, Ch. 27, Sp. L. November 1993.

Cross-References

Misdemeanor penalty, 46-18-212.

Part 9
Livestock

Part Cross-References

Exemption for livestock less than 9 months of age and swine less than 3 months of age, 15-6-207.
Levy on cattle — Livestock Protection Committee, 81-6-104.
Levy on cattle — cattle protective districts, 81-6-204, 81-6-209.
State levy on livestock for predator control, 81-7-103, 81-7-104.
County levy on livestock for predator control, 81-7-201.
County levy for sheep predator control, 81-7-303.
County levy for livestock shows and sales, 81-8-504.

15-24-901. Repealed. Secs. 27, 31, Ch. 285, L. 1999.

History: En. 84-5201.3 by Sec. 1, Ch. 260, L. 1977; R.C.M. 1947, 84-5201.3; amd. Sec. 4, Ch. 570, L. 1985; amd. Sec. 45, Ch. 370, L. 1987; amd. Sec. 108, Ch. 27, Sp. L. November 1993.

15-24-902. Number of livestock. The department shall determine the number of livestock for the purposes of the per capita fee imposed under 15-24-921 in each county where they are located on February 1 of each year. The livestock must be assigned to the person by whom they were owned or claimed or in whose possession or control they were at midnight of February 1 in that year.

History: En. Sec. 3720, Pol. C. 1895; re-en. Sec. 2530, Rev. C. 1907; re-en. Sec. 2068, R.C.M. 1921; re-en. Sec. 2068, R.C.M. 1935; R.C.M. 1947, 84-5201; amd. Sec. 8, Ch. 598, L. 1989; amd. Sec. 109, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 576, L. 1995; amd. Sec. 18, Ch. 285, L. 1999; amd. Sec. 97, Ch. 574, L. 2001.

Cross-References

Roundup of horses that have escaped assessment, Title 81, ch. 4, part 5.

15-24-903. Duty of owner to assist in assessment. (1) The owner of livestock, as defined in 15-24-921, or the owner's agent shall deliver to the department by March 1 of each year an electronic or written statement, under oath, listing the number of the owner's livestock and the county or counties where the livestock were located on February 1 of the same year.

(2) As used in this section, "agent" means any person, persons, company, or corporation, including a feedlot operator or owner of grazing land, who has charge of livestock on the assessment date.

History: En. 84-5201.1 by Sec. 4, Ch. 507, L. 1975; amd. Sec. 6, Ch. 260, L. 1977; R.C.M. 1947, 84-5201.1; amd. Sec. 2, Ch. 663, L. 1979; amd. Sec. 9, Ch. 598, L. 1989; amd. Sec. 110, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 576, L. 1995; amd. Sec. 19, Ch. 285, L. 1999; amd. Sec. 1, Ch. 54, L. 2015.

15-24-904. Penalty for violation of law. If a person, company, or corporation who is the owner or is in charge of livestock within this state fails to make the statement or statements as provided in 15-24-903, the department shall, after 10 days' notice to the person who failed to file the report, assess the penalty provided in 15-8-309 on the per capita fee, as provided in 15-24-921.

History: En. Sec. 7, Ch. 125, L. 1909; re-en. Sec. 2075, R.C.M. 1921; re-en. Sec. 2075, R.C.M. 1935; amd. Sec. 5, Ch. 507, L. 1975; R.C.M. 1947, 84-5208; amd. Sec. 3, Ch. 663, L. 1979; amd. Sec. 111, Ch. 27, Sp. L. November 1993; amd. Sec. 20, Ch. 285, L. 1999; amd. Sec. 5, Ch. 427, L. 1999; amd. Sec. 19, Ch. 7, L. 2001; amd. Sec. 98, Ch. 574, L. 2001.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-24-905. Livestock brought into state — notice to department. The owner or the agent, manager, or supervisor of any person, corporation, or association bringing livestock into this state after February 1 shall include the name of the owner of the livestock, the number of livestock, and the county or counties into which the livestock are moved on a livestock reporting form due on March 1 of the following year.

History: En. Sec. 5, Ch. 41, L. 1953; amd. Sec. 114, Ch. 405, L. 1973; amd. Sec. 20, Ch. 388, L. 1975; R.C.M. 1947, 84-6012; amd. Sec. 7, Ch. 663, L. 1979; amd. Sec. 10, Ch. 598, L. 1989; amd. Sec. 112, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 54, L. 2015; amd. Sec. 1, Ch. 120, L. 2023.

15-24-906. Collection of fee on livestock. The department, upon receipt of the livestock reporting form provided for in 15-24-905 or other information that livestock have been brought into a county from outside of the state after February 1 in any year, shall immediately proceed under the provisions of this part.

History: En. Sec. 6, Ch. 41, L. 1953; amd. Sec. 115, Ch. 405, L. 1973; amd. Sec. 21, Ch. 388, L. 1975; amd. Sec. 9, Ch. 260, L. 1977; R.C.M. 1947, 84-6013; amd. Sec. 113, Ch. 27, Sp. L. November 1993; amd. Sec. 3, Ch. 54, L. 2015.

15-24-907. Repealed. Sec. 15, Ch. 663, L. 1979.

History: En. Sec. 7, Ch. 41, L. 1953; amd. Sec. 116, Ch. 405, L. 1973; amd. Sec. 10, Ch. 260, L. 1977; R.C.M. 1947, 84-6014.

15-24-908. Repealed. Sec. 11, Ch. 598, L. 1989.

History: En. 84-5201.4 by Sec. 2, Ch. 260, L. 1977; R.C.M. 1947, 84-5201.4; amd. Sec. 11, Ch. 663, L. 1979.

15-24-909. Repealed. Sec. 11, Ch. 598, L. 1989.

History: En. 84-5201.5 by Sec. 3, Ch. 260, L. 1977; R.C.M. 1947, 84-5201.5; amd. Sec. 12, Ch. 663, L. 1979.

15-24-910. Repealed. Sec. 11, Ch. 598, L. 1989.

History: En. 84-5201.6 by Sec. 4, Ch. 260, L. 1977; R.C.M. 1947, 84-5201.6; amd. Sec. 13, Ch. 663, L. 1979.

15-24-911. Repealed. Sec. 11, Ch. 598, L. 1989.

History: En. Sec. 10, Ch. 663, L. 1979; amd. Sec. 7, Ch. 20, L. 1985.

15-24-912 through 15-24-919 reserved.

15-24-920. Repealed. Secs. 27, 31, Ch. 285, L. 1999.

History: En. Sec. 1, Ch. 627, L. 1991; amd. Sec. 7, Ch. 539, L. 1993; amd. Sec. 114, Ch. 27, Sp. L. November 1993; amd. Sec. 7, Ch. 576, L. 1995.

15-24-921. Per capita fee to pay expenses of enforcing livestock laws. (1) (a) A per capita fee is authorized and directed to be imposed by the department on all poultry and honey bees, all swine 3 months of age or older, and all other livestock 9 months of age or older in each county of this state. The fee is in addition to appropriations and is to help pay the salaries and all expenses connected with the enforcement of the livestock laws of the state and bounties on wild animals as provided in 81-7-104.

(b) A per capita fee may not be imposed on bison owned by a tribal member or tribe and located on fee land or tribal land within the boundaries of a reservation.

(2) The per capita fee is due on March 1 of each year. The penalty and interest provisions contained in 15-1-216 apply to late payments of the fee.

(3) Except as provided in subsection (1)(b), as used in this section, "livestock" means cattle, sheep, swine, poultry, honey bees, goats, horses, mules, asses, llamas, alpacas, domestic bison, ostriches, rheas, emus, and domestic ungulates.

History: En. Sec. 1, Ch. 127, L. 1915; re-en. Sec. 2076, R.C.M. 1921; re-en. Sec. 2076, R.C.M. 1935; R.C.M. 1947, 84-5209; amd. Sec. 3, Ch. 660, L. 1987; amd. Sec. 2, Ch. 627, L. 1991; amd. Sec. 2, Ch. 417, L. 1993; amd. Sec. 115, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 206, L. 1995; amd. Sec. 99, Ch. 574, L. 2001; amd. Sec. 5, Ch. 13, Sp. L. August 2002; amd. Sec. 4, Ch. 54, L. 2015; amd. Sec. 1, Ch. 119, L. 2017; amd. Sec. 1, Ch. 507, L. 2021; amd. Sec. 2, Ch. 120, L. 2023.

15-24-922. Board of livestock to prescribe per capita fee — refunds. (1) The board of livestock shall annually prescribe the amount of the per capita fee to be made against livestock of all classes for the purpose indicated in 15-24-921.

(2) The per capita fee must be calculated each year to provide not more than 110% of the average annual revenue that was generated solely by the per capita fee in the 3 previous years. The calculation may not include investment income and must apply a reasonable factor for nonpayment and late payment of fees and for reimbursement to the department pursuant to 15-24-925 for collection of the fee.

(3) (a) A livestock owner who moves livestock between states is entitled to a refund of the per capita fee collected under 15-24-921 based on the number of months that the livestock have situs in Montana. The amount of the refund is equal to the ratio of the number of months that the livestock do not have situs in the state to the number of months in the year, multiplied by the original per capita fee due. A taxpayer shall apply to the board of livestock on a form prescribed by the board for a refund allowed under this subsection by March 31 of the following year. The applicant shall provide a statement showing the date when the livestock were moved out of or into the state and documentation of livestock transfers pursuant to Title 81, chapter 3, part 2.

(b) For the purposes of 15-24-921 and this section, the per capita fee may not be prorated.

History: En. Sec. 2, Ch. 127, L. 1915; re-en. Sec. 2077, R.C.M. 1921; re-en. Sec. 2077, R.C.M. 1935; amd. Sec. 194, Ch. 516, L. 1973; R.C.M. 1947, 84-5210; amd. Sec. 10, Ch. 79, L. 1983; amd. Sec. 4, Ch. 660, L. 1987; amd. Sec. 3, Ch. 627, L. 1991; amd. Sec. 4, Ch. 576, L. 1995; amd. Sec. 21, Ch. 285, L. 1999; amd. Sec. 100, Ch. 574, L. 2001; amd. Sec. 1, Ch. 83, L. 2015; amd. Sec. 1, Ch. 15, L. 2019.

15-24-923. Repealed. Sec. 12, Ch. 660, L. 1987.

History: En. Sec. 3, Ch. 127, L. 1915; re-en. Sec. 2078, R.C.M. 1921; amd. Sec. 1, Ch. 152, L. 1929; re-en. Sec. 2078, R.C.M. 1935; amd. Sec. 109, Ch. 147, L. 1963; amd. Sec. 1, Ch. 422, L. 1975; amd. Sec. 1, Ch. 120, L. 1977; amd. Sec. 60, Ch. 566, L. 1977; R.C.M. 1947, 84-5211; amd. Sec. 1, Ch. 445, L. 1981; amd. Sec. 1, Ch. 277, L. 1983.

15-24-924. Repealed. Sec. 12, Ch. 660, L. 1987.

History: En. Sec. 4, Ch. 127, L. 1915; re-en. Sec. 2079, R.C.M. 1921; re-en. Sec. 2079, R.C.M. 1935; amd. Sec. 89, Ch. 147, L. 1963; amd. Sec. 2, Ch. 422, L. 1975; amd. Sec. 2, Ch. 120, L. 1977; R.C.M. 1947, 84-5212; amd. Sec. 1, Ch. 277, L. 1983.

15-24-925. *(Temporary)* **Reimbursement to department — transmission of fees to state.** (1) The department may withhold 2% of the money received under 15-24-921 as reimbursement for the collection of the fee on livestock unless a different percentage of money to be withheld is mutually agreed upon by the department and the department of livestock on an annual basis.

(2) The department shall designate the amount received from the fee imposed on sheep and the amount received from the fee imposed on all other livestock and shall specify the separate amounts in the report to the department of livestock. The money, when received by the department, must be deposited in an account in the special revenue fund to the credit of the department of livestock. The money in the account must be kept separate from other funds received by the department of livestock. Interest earned on money in the account must be deposited in the account.

(3) At least $350,000 must be transferred from the state special revenue account in subsection (2) to the predatory animal special revenue account provided for in 81-7-106 in each fiscal year. *(Terminates June 30, 2029—sec. 3, Ch. 20, L. 2023.)*

15-24-925. *(Effective July 1, 2029)* **Reimbursement to department — transmission of fees to state.** (1) The department may withhold 2% of the money received under 15-24-921 as reimbursement for the collection of the fee on livestock unless a different percentage of money to be withheld is mutually agreed upon by the department and the department of livestock on an annual basis.

(2) The department shall designate the amount received from the fee imposed on sheep and the amount received from the fee imposed on all other livestock and shall specify the separate amounts in the report to the department of livestock. The money, when received by the department, must be deposited in an account in the special revenue fund to the credit of the department of livestock. The money in the account must be kept separate from other funds received by the department of livestock. Interest earned on money in the account must be deposited in the account.

(3) The amount of $350,000 is transferred from the state special revenue account in subsection (2) to the predatory animal special revenue account provided for in 81-7-106 in each fiscal year.

History: En. Sec. 5, Ch. 127, L. 1915; re-en. Sec. 2080, R.C.M. 1921; re-en. Sec. 2080, R.C.M. 1935; R.C.M. 1947, 84-5213; amd. Sec. 1, Ch. 100, L. 1983; amd. Sec. 3, Ch. 444, L. 1983; amd. Sec. 5, Ch. 660, L. 1987; amd. Sec. 4, Ch. 509, L. 1995; amd. Sec. 7, Ch. 257, L. 2001; amd. Sec. 101, Ch. 574, L. 2001; amd. Sec. 6, Ch. 13, Sp. L. August 2002; amd. Sec. 1, Ch. 12, L. 2005; amd. Sec. 6, Ch. 339, L. 2011; amd. Sec. 2, Ch. 284, L. 2017.

15-24-926. Repealed. Secs. 27, 31, Ch. 285, L. 1999.
History: En. Sec. 14, Ch. 663, L. 1979; amd. Sec. 4, Ch. 627, L. 1991.

15-24-927. Repealed. Secs. 27, 31, Ch. 285, L. 1999.
History: En. Sec. 3, Ch. 576, L. 1995.

15-24-928 through 15-24-930 reserved.

15-24-931. Repealed. Secs. 27, 31, Ch. 285, L. 1999.
History: En. 84-5222 by Sec. 1, Ch. 393, L. 1977; R.C.M. 1947, 84-5222; amd. Sec. 68, Ch. 575, L. 1981.

15-24-932 through 15-24-940 reserved.

15-24-941. Repealed. Sec. 11, Ch. 598, L. 1989.
History: En. Sec. 4, Ch. 663, L. 1979.

15-24-942. Repealed. Sec. 11, Ch. 598, L. 1989.
History: En. Sec. 5, Ch. 663, L. 1979.

15-24-943. Repealed. Sec. 11, Ch. 598, L. 1989.
History: En. Sec. 6, Ch. 663, L. 1979.

Part 10
Custom Combines
(Renumbered)

15-24-1001. Renumbered 61-10-130. Sec. 3, Ch. 183, L. 1989.

Part 11
Leasehold and Other Interests in U.S. Property

Part Cross-References
Exemption of United States property, 15-6-201.

15-24-1101. Federal property held under contract by private person subject to taxation. Real or personal property of the United States or any department or agency of the United States held under contract of sale, lease, or other interest or estate in the property by any person for the person's exclusive use is subject to assessment for ad valorem property taxation as provided in this part. However, this part does not apply to real property held and in immediate use and occupation by this state or any county, municipal corporation, or political subdivision in this state.

History: En. Sec. 1, Ch. 212, L. 1951; R.C.M. 1947, 84-6101; amd. Sec. 156, Ch. 56, L. 2009.

15-24-1102. Federal property held under contract of sale. When the property is held under a contract of sale or other agreement whereby upon payment the legal title is or may be acquired by the person, the real property shall be assessed and taxed as defined in Title 15, chapter 6, part 1, and 15-8-111 without deduction on account of the whole or any part of the purchase price or other sum due on the property remaining unpaid. The lien for the tax may not attach to, impair, or be enforced against any interest of the United States in the real property.

History: En. Sec. 2, Ch. 212, L. 1951; amd. Sec. 66, Ch. 566, L. 1977; R.C.M. 1947, 84-6102; amd. Sec. 22, Ch. 693, L. 1979; amd. Sec. 46, Ch. 370, L. 1987; amd. Sec. 7, Ch. 10, Sp. L. June 1989.

15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein that is less than the fee, except under contract of sale, the property must be assessed and taxed for the value, as defined in Title 15, chapter 6, part 1, of the leasehold, interest, or estate in the property. The lien for the tax must attach to and be enforced against only the leasehold, interest, or estate in the property. Whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. When the United States authorizes the taxation of the property for the full assessed value of the fee, the property must be assessed for full assessed value as defined in 15-8-111.

History: En. Sec. 3, Ch. 212, L. 1951; amd. Sec. 67, Ch. 566, L. 1977; R.C.M. 1947, 84-6103; amd. Sec. 23, Ch. 693, L. 1979; amd. Sec. 47, Ch. 370, L. 1987; amd. Sec. 8, Ch. 10, Sp. L. June 1989; amd. Sec. 2, Ch. 80, L. 1993.

15-24-1104. Collection of taxes on interests in United States lands. In addition to all other remedies available for the collection of taxes, all taxes levied in any year against property held as under the provisions of this part shall be a debt due and owing from the person so holding such property as of the date of delinquency for taxes on property for such tax year. If any such tax be not paid within 1 year from such date, the county within which such property is located may institute for itself, the state of Montana, and all other municipal corporations sharing in such taxes an action for the collection of said taxes, together with interest, costs, and other lawful charges thereon. At the time of commencement of such action, the county shall have the benefit of all laws of this state pertaining to provisional remedies against the properties, either real or personal, of said person.

History: En. Sec. 4, Ch. 212, L. 1951; R.C.M. 1947, 84-6104.

Cross-References
Collection of taxes by suit, Title 15, ch. 24, part 11.

Part 12
State and Other Exempt Property

Part Cross-References
Exemption of state and municipal property, 15-6-201.

15-24-1201. State and other exempt property held under contract — when taxable. Property of the state of Montana or any department, agency, or subdivision of the state or any other property not subject to ad valorem tax to the owner of the property by reason of the legal status of the owner, held under contract of sale or lease with option to purchase with lease money applicable to the purchase price by any person for the person's exclusive use, is subject to assessment to the purchaser or lessee for ad valorem property taxation.

History: En. Sec. 1, Ch. 39, L. 1965; R.C.M. 1947, 84-204; amd. Sec. 157, Ch. 56, L. 2009.

15-24-1202. Taxable interests in state and other exempt property — assessment. When such property is held under a contract of sale or other agreement whereby on certain payment or payments the legal title is or may be acquired by such person, such property shall be assessed to such person and taxed without deduction on account of the whole or any part of the purchase price or other sum due on such property remaining unpaid, provided that the lien for such tax neither attach to, impair, nor be enforced against any interest of the state of Montana or any department, agency, or subdivision thereof.

History: En. Sec. 2, Ch. 39, L. 1965; R.C.M. 1947, 84-205.

15-24-1203. Privilege tax on industrial, trade, or other business use of tax-exempt property — exceptions. (1) There is imposed and must be collected a tax upon the possession or other beneficial use for industrial, trade, or other business purposes enjoyed by any private individual, association, or corporation of any property, real or personal, that for any reason is exempt from taxation. The tax is imposed upon the possession or other beneficial use of an electric transmission line and associated facilities, except that lines and facilities of a design capacity of less than 500 kilovolts are not subject to the tax.

(2) The tax may not be imposed upon:

(a) the possession or other beneficial use of railroad right-of-way or track owned by the United States or acquired by the state pursuant to Title 60, chapter 11, part 1, as long as the state or the United States retains ownership and the right-of-way or track is used exclusively for rail transportation;

(b) the beneficial use by a person of property held by a port authority, created under Title 7, chapter 14, part 11, or by a port authority owned by the United States or an agency of the United States unless the port authority provides for the exclusive use of the property by the person;

(c) the possession or other beneficial use of public lands occupied under the terms of recreational, mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates; or

(d) the possession or other beneficial use of buildings owned by public entities and located upon public airports. However, privately owned buildings located on public airport property are subject to taxation.

History: En. Sec. 1, Ch. 370, L. 1969; amd. Sec. 1, Ch. 387, L. 1977; R.C.M. 1947, 84-207; amd. Sec. 3, Ch. 683, L. 1983; amd. Sec. 2, Ch. 591, L. 1987; amd. Sec. 12, Ch. 83, L. 1989; amd. Sec. 1, Ch. 621, L. 1991; amd. Sec. 1, Ch. 104, L. 1993; amd. Sec. 1, Ch. 427, L. 1993; amd. Sec. 2, Ch. 49, L. 1997.

15-24-1204. Rate of privilege — tax credit for federal payments in lieu of taxes. The tax imposed upon the possession or other beneficial use of tax-exempt property for industrial, trade, or other business purposes is on the separate private interest in the tax-exempt property. The amount of payments that are made in lieu of taxes must be credited against the amount of tax that is imposed upon the beneficial use of property owned by the federal government.

History: En. Sec. 2, Ch. 370, L. 1969; R.C.M. 1947, 84-208; amd. Sec. 2, Ch. 104, L. 1993; amd. Sec. 1, Ch. 256, L. 1993; amd. Sec. 2, Ch. 427, L. 1993.

Cross-References

Federal sums in lieu of taxes, Title 17, ch. 3, part 3.

15-24-1205. Privilege tax — assessment and collection — no lien. The tax imposed hereunder shall be assessed to such possessors or users of the tax-exempt property upon the same forms and shall be collected and distributed at the same time and in the same manner as taxes assessed to owners, possessors, or other claimants of property which is subject to ad valorem taxation, except that such taxes shall not become a lien against the property and no such tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax imposed hereunder.

History: En. Sec. 3, Ch. 370, L. 1969; R.C.M. 1947, 84-209.

15-24-1206. County suit for delinquent privilege tax. A tax due and unpaid under 15-24-1203 through 15-24-1205 constitutes a debt due the county for and on behalf of the various taxing units concerned in the tax. If the tax imposed by 15-24-1203 through 15-24-1205 or any portion of the tax is not paid at the time the tax becomes delinquent, the county auditor may

issue a warrant in the name of the county directed to the clerk of the district court in the clerk's county, and the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest, and other costs for which the warrant is issued and the date when the warrant is filed. The docketed warrant has the effect of a judgment rendered by a district court and docketed in the office of the clerk, and the county has the same remedies against the possessor user as any other judgment docket.

History: En. Sec. 4, Ch. 370, L. 1969; R.C.M. 1947, 84-210; amd. Sec. 158, Ch. 56, L. 2009.

15-24-1207. Reporting requirements — penalty — rules. (1) Each private person who is a possessor or a beneficial user of tax-exempt property for industrial, trade, or other business purposes subject to tax pursuant to 15-24-1203 shall, on or before March 1 each year, file with the department a statement of the possession or other beneficial use of tax-exempt property in the preceding calendar year and the value of the property. The statement must be in the form prescribed by the department and must be verified by the possessor or beneficial user or, in the case of an association or corporation, by an officer of the association or corporation. The statement must include:

(a) the name and address of the person, association, or corporation;

(b) the location of the tax-exempt property; and

(c) the market value in dollars and cents of the tax-exempt property.

(2) A person who fails to file the statement required by subsection (1) must be assessed the penalty provided in 15-8-309.

(3) The department may adopt any reasonable rules necessary to insure that the possessor or other beneficial user of tax-exempt property complies with the provisions of this part.

History: En. Sec. 1, Ch. 683, L. 1983; amd. Sec. 3, Ch. 104, L. 1993; amd. Sec. 6, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Centrally administered tax-exempt property, 15-23-111.

15-24-1208. Apportionment of tax-exempt property. (1) If property is owned in any manner by both a tax-exempt person or entity and a person or entity subject to taxation, the ownership interest of the person or entity subject to taxation in the property must be assessed, and that interest is taxable. The department of revenue shall assess the value of the taxable interest in the property by prorating the value of the property between the taxable interest and the nontaxable interest based on the ownership interests shown on the title to the property or any other document that evidences the ownership of the property. If there is no title to the property or other document that evidences the ownership interests or if the title or other document does not show the ownership interest, the value of the property must be prorated among the owners as if each owner owned equal interests in the property.

(2) If property is tax-exempt by virtue of its use, it loses its tax-exempt status when the tax-exempt use ends. If the property is used for both a tax-exempt use and a taxable use, the property is taxed based on the taxable use. The department shall assess the property based on the ratio of the taxable use to the total tax-exempt and taxable use during the preceding calendar year multiplied by the market value of the property.

History: En. Sec. 1, Ch. 90, L. 1993.

15-24-1209. Adjustment of taxes for formerly taxed property — presumption of taxability. (1) If the department reduces the amount of taxable property owned by a person or entity because of a determination that the property consists of the bed of a navigable river or stream, the department shall, as applicable, reduce the amount of tract land that is taxable or grazing land that is taxable before reducing the amount of irrigated land or nonirrigated land that is taxable.

(2) In the absence of adjudication by a court of competent jurisdiction of the ownership of the bed of any river or stream, it is the policy of the state that the department shall assess all land that is part of the bed and banks of a river or stream to the owner of record of the property.

(3) The department shall notify landowners of their right to request and shall provide upon request a revised assessment for tax year 2008 for the bed of any stream:

(a) not adjudicated to be navigable by a court of competent jurisdiction; or

(b) not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river.

History: En. Sec. 2, Ch. 472, L. 2009.

Part 13
Montana Economic Land Development Act (Repealed)

15-24-1301. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7501 by Sec. 1, Ch. 549, L. 1975; R.C.M. 1947, 84-7501.

15-24-1302. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7502.1 by Sec. 1, Ch. 582, L. 1977; R.C.M. 1947, 84-7502.1.

15-24-1303. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7503.1 by Sec. 2, Ch. 582, L. 1977; R.C.M. 1947, 84-7503.1.

15-24-1304. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7504.1 by Sec. 3, Ch. 582, L. 1977; R.C.M. 1947, 84-7504.1; amd. Sec. 6, Ch. 274, L. 1981.

15-24-1305. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7505.1 by Sec. 4, Ch. 582, L. 1977; R.C.M. 1947, 84-7505.1.

15-24-1306. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7508.1 by Sec. 5, Ch. 582, L. 1977; R.C.M. 1947, 84-7508.1.

15-24-1307. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7509.1 by Sec. 6, Ch. 582, L. 1977; R.C.M. 1947, 84-7509.1.

15-24-1308. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7510.1 by Sec. 7, Ch. 582, L. 1977; R.C.M. 1947, 84-7510.1; amd. Sec. 24, Ch. 693, L. 1979.

15-24-1309. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7511.1 by Sec. 8, Ch. 582, L. 1977; R.C.M. 1947, 84-7511.1.

15-24-1310. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7512.1 by Sec. 9, Ch. 582, L. 1977; R.C.M. 1947, 84-7512.1.

15-24-1311. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7513.1 by Sec. 10, Ch. 582, L. 1977; R.C.M. 1947, 84-7513.1; amd. Sec. 25, Ch. 693, L. 1979.

15-24-1312. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7514.1 by Sec. 11, Ch. 582, L. 1977; R.C.M. 1947, 84-7514.1.

15-24-1313. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7516.1 by Sec. 13, Ch. 582, L. 1977; R.C.M. 1947, 84-7516.1.

15-24-1314. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7517.1 by Sec. 14, Ch. 582, L. 1977; R.C.M. 1947, 84-7517.1.

15-24-1315. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7518.1 by Sec. 15, Ch. 582, L. 1977; R.C.M. 1947, 84-7518.1.

15-24-1316. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7519.1 by Sec. 16, Ch. 582, L. 1977; R.C.M. 1947, 84-7519.1.

15-24-1317. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7515.1 by Sec. 12, Ch. 582, L. 1977; R.C.M. 1947, 84-7515.1.

15-24-1318. Repealed. Sec. 1, Ch. 48, L. 1985.
History: En. 84-7520.1 by Sec. 17, Ch. 582, L. 1977; R.C.M. 1947, 84-7520.1.

Part 14
New or Expanding Industry — Ammunition Components

15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added or will add at least $50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry's gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales;

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225;

(g) operates a qualified data center or dedicated communications infrastructure classified under 15-6-162; or

(h) operates a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system as defined in 15-6-163.

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested or will invest at least $125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section.

History: En. Sec. 2, Ch. 564, L. 1981; amd. Sec. 1, Ch. 574, L. 1987; amd. Sec. 2, Ch. 694, L. 1991; amd. Sec. 29, Ch. 51, L. 1999; amd. Sec. 7, Ch. 591, L. 2001; amd. Sec. 2, Ch. 405, L. 2003; amd. Sec. 4, Ch. 438, L. 2017; amd. Sec. 1, Ch. 269, L. 2019; amd. Sec. 7, Ch. 291, L. 2021; amd. Sec. 2, Ch. 644, L. 2023.

15-24-1402. New or expanding industry — assessment — notification. (1) In the first 5 years after commencement of construction, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 25% or 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer may submit an application for a project with a project plan and receive approval for an abatement prior to commencement of construction. A taxpayer that does not seek approval prior to commencing construction must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. If a taxpayer receives approval of a tax abatement prior to commencement of construction, the abatement does not extend to property that is outside the scope of the project plan that was submitted to the governing body with the application.

(b) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (2)(b)(i).

(c) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

(d) Subject to 15-10-420 and subsection (2)(f) of this section, a tax benefit may not be denied once approved.

(e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(f) Property taxes abated from the reduction in taxable value allowed by this section are subject to termination or recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(e) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.

(6) The taxpayer may terminate an abatement provided pursuant to this section on a form promulgated by the department.

History: En. Sec. 3, Ch. 564, L. 1981; amd. Sec. 2, Ch. 574, L. 1987; amd. Sec. 3, Ch. 694, L. 1991; amd. Sec. 48, Ch. 767, L. 1991; amd. Sec. 116, Ch. 27, Sp. L. November 1993; amd. Sec. 97, Ch. 584, L. 1999; amd. Sec. 1, Ch. 597, L. 2005; amd. Sec. 1, Ch. 57, L. 2013; amd. Sec. 1, Ch. 379, L. 2017; amd. Sec. 2, Ch. 269, L. 2019; amd. Sec. 3, Ch. 692, L. 2023.

15-24-1403 through 15-24-1409 reserved.

15-24-1410. Terminated. Sec. 16, Ch. 440, L. 2015.

History: En. Sec. 8, Ch. 440, L. 2015; amd. Sec. 8, Ch. 3, L. 2019.

15-24-1411. *(Temporary)* **Manufacturer of ammunition components — exemption from statewide property taxes.** As provided in 30-20-207, property used in the manufacture of ammunition components is exempt from the property taxes levied for state educational purposes under 20-9-331, 20-9-333, 20-9-360, and 20-25-439. The exemption must be administered and applied for as provided in 30-20-207 and 30-20-208. *(Terminates December 31, 2035—sec. 11, Ch. 675, L. 2025.)*

History: En. Sec. 3, Ch. 675, L. 2025.

Compiler's Comments

Effective Date: Section 9, Ch. 675, L. 2025, provided: "[This act] is effective on passage and approval." Approved May 13, 2025.

Retroactive Applicability: Section 10, Ch. 675, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 2025."

Termination: Section 11, Ch. 675, L. 2025, provided: "[This act] terminates December 31, 2035."

Part 15
Remodeling of Buildings or Structures

15-24-1501. Remodeling, reconstruction, or expansion of buildings or structures — assessment provisions — levy limitations. (1) Subject to 15-10-420 and the authority contained in subsection (5) of this section, remodeling, reconstruction, or expansion of existing buildings or structures, which increases their taxable value by at least 2½% as determined by the department, may receive tax benefits during the construction period and for the following 5 years in accordance with subsections (2), (4), and (5) and the following schedule. The percentages must be applied as provided in subsections (4) and (5) and are limited to the increase in taxable value caused by remodeling, reconstruction, or expansion:

Construction period	0%
First year following construction	20%
Second year following construction	40%
Third year following construction	60%
Fourth year following construction	80%
Fifth year following construction	100%
Following years	100%

(2) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county or, if the construction will occur within an incorporated city or town, the governing body of the incorporated city or town shall, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, approve by resolution for each remodeling, reconstruction, or expansion project the use of the schedule provided for in subsection (1) or a schedule adopted pursuant to subsection (5).

(3) (a) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for high school district and elementary school district purposes and to the number of mills levied and assessed by the local governing body approving the benefit. The benefit described in subsection (1) may not apply to statewide levies.

(5) A local government may, in the resolution required by subsection (2), modify the percentages contained in subsection (1) that apply to the first year following construction through the fourth year following construction. A local government may not modify the percentages contained in subsection (1) that apply to the fifth year following construction or years following the fifth year. A local government may not modify the time limits contained in subsection (1). The modifications to the percentages in subsection (1) adopted by a local government apply uniformly to each remodeling, reconstruction, or expansion project approved by the governing body.

(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions

of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 2, Ch. 599, L. 1981; amd. Sec. 1, Ch. 439, L. 1985; amd. Sec. 1, Ch. 695, L. 1989; amd. Sec. 117, Ch. 27, Sp. L. November 1993; amd. Sec. 98, Ch. 584, L. 1999; amd. Sec. 2, Ch. 597, L. 2005; amd. Sec. 2, Ch. 57, L. 2013.

15-24-1502. Tax exemption and abatement for remodeling, reconstruction, or expansion of certain commercial property — approval. (1) (a) Subject to the conditions of this section, remodeling, reconstruction, or expansion of an existing commercial building or structure that increases its taxable value by at least 5%, as determined by the department, may receive a property tax exemption during the construction period, not to exceed 12 months, and for up to 5 years following completion of construction. The property tax exemption is limited to 100% of the increase in taxable value caused by remodeling, reconstruction, or expansion.

(b) (i) In addition to the property tax exemption described in subsection (1)(a), the buildings and structures may receive a property tax reduction for 4 years following the exemption period as provided in this subsection (1)(b). The percentages must be applied to the increase in taxable value caused by remodeling, reconstruction, or expansion according to the following schedule:

First year following the exemption period	20%
Second year following the exemption period	40%
Third year following the exemption period	60%
Fourth year following the exemption period	80%
Fifth year following the exemption period	100%
Following years	100%

(ii) Mill levies are assessed against the reduced taxable value of the remodeling, reconstruction, or expansion determined under subsection (1)(b)(i).

(c) To be eligible for the property tax exemption and the property tax reduction, the commercial building or structure may not have been used in a business for at least 6 months immediately preceding the date of application to the governing body for approval under subsection (2).

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county or consolidated government or, if the construction will occur within an incorporated city or town, the governing body of the incorporated city or town shall, following due notice as provided in 7-1-2121 if a county or consolidated local government or 7-1-4127 if an incorporated city or town and a public hearing, approve by resolution for each remodeling, reconstruction, or expansion project the use of the property tax exemption and property tax reduction.

(b) The governing body may not grant the property tax benefits described in subsection (1) if property taxes on the buildings or structures are delinquent.

(3) (a) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, consolidated local government, city, or town is located a writ of mandamus to compel the governing body to make a determination.

(4) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not

meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 1, Ch. 135, L. 2001; amd. Sec. 3, Ch. 597, L. 2005; amd. Sec. 3, Ch. 57, L. 2013.

Part 16
Historic Properties

15-24-1601. Purpose. The purpose of this part is to provide legislation and guidance for the administration of a property tax abatement program for the restoration, rehabilitation, expansion, and new construction of certified residential and commercial properties located within national register historic districts and properties listed in the National Register of Historic Places. The abatement does not apply to the tax on personal property.

History: En. Sec. 1, Ch. 424, L. 1989.

15-24-1602. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the local review board as provided in 15-24-1605.

(2) "Certification" means approval by the board or state historic preservation office of a property's qualification for the property tax abatement under the terms of this part.

(3) "Contributing" means a building, site, structure, or object with historic architectural qualities, historic association, or archaeological value for which a property is significant because:

(a) it was present during a period of significant local or state history and possesses historic design or architectural integrity reflecting its character at that time or is capable of yielding important information about the period; or

(b) it independently meets the criteria for listing in the National Register of Historic Places.

(4) "Rehabilitation" means the process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those features of the property that are significant to its historical, architectural, and cultural values.

(5) "Restoration" means the process of accurately recovering the form, details, and setting of a property as it appeared when it was originally built or constructed by removing later work or replacing missing earlier work.

History: En. Sec. 2, Ch. 424, L. 1989.

15-24-1603. Historic property tax abatement — levy limitations. (1) Subject to 15-10-420, a historic property undergoing rehabilitation, restoration, expansion, or new construction that meets criteria established by the review process described in 15-24-1605 or 15-24-1606 may receive a tax abatement during the construction period, not to exceed 12 months, and for up to 5 years following completion of the construction in accordance with subsections (2) and (4). The tax abatement is limited to 100% of the increase in taxable value caused by the rehabilitation, restoration, expansion, or new construction.

(2) In order to confer the tax benefits described in subsection (1), the governing body of the county or incorporated city or town where the improvement occurs shall establish by resolution the process for the use of the tax abatement provisions described in subsection (1). In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body must have approved by separate resolution for each project, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the use of the property tax abatement.

(3) (a) The governing body shall:

(i) publish due notice within the lesser of:

(A) 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; or

(B) 30 days of receiving the board's recommendation under 15-24-1605(3); and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

(4) Property that receives a tax benefit under this part is not entitled to any other exemption or special valuation provided by Montana law during the period of the abatement.

(5) (a) The tax abatement applies only to the number of mills levied:

(i) for high school and elementary school district purposes; and

(ii) by the local governing body approving the abatement.

(b) The abatement may not apply to statewide levies.

History: En. Sec. 3, Ch. 424, L. 1989; amd. Sec. 99, Ch. 584, L. 1999; amd. Sec. 4, Ch. 57, L. 2013.

15-24-1604. Eligibility. A property that meets the design review criteria in 15-24-1605 is eligible for the property tax abatement if it is:

(1) located within the boundaries of a national register historic district and contributes to the district, as determined by the state historic preservation office;

(2) a newly constructed property within the boundaries of a national register historic district that meets design review criteria as being architecturally compatible with the historic district, as determined by the local review board or the state historic preservation office; or

(3) listed individually in the National Register of Historic Places.

History: En. Sec. 4, Ch. 424, L. 1989.

15-24-1605. Responsibilities of local governing bodies — local review board — design review process. (1) A local governing body that approves the tax benefit may designate a local review board to establish an application and review process to certify eligible properties. The review process must include design review criteria based on the secretary of the interior's standards for preservation projects or other standards approved by the state historic preservation office.

(2) The board shall include:

(a) at least three members with professional expertise in history, planning, archaeology, architectural history, historic archaeology, or another historic preservation-related discipline;

(b) at least one architect; and

(c) up to two members of the general public.

(3) The board shall determine whether a property is eligible under 15-24-1604 and is qualified for the tax abatement. The board shall approve or deny an application for the tax abatement within 30 days of receiving a taxpayer's complete application and report its recommendation to the local governing body.

History: En. Sec. 5, Ch. 424, L. 1989; amd. Sec. 5, Ch. 57, L. 2013.

15-24-1606. Responsibilities of the state historic preservation office. (1) If the local governing body approving the tax abatement does not appoint a board under the provisions of 15-24-1605, the state historic preservation office shall provide design review assistance and certification for qualifying properties.

(2) The state historic preservation office shall evaluate design review standards submitted to it for approval by the board.

History: En. Sec. 6, Ch. 424, L. 1989.

15-24-1607. Disqualification and penalty. (1) Following certification and during the period of tax abatement, a property that is altered in a way that adversely affects those elements that qualify it as historically contributing must be disqualified from receiving the tax abatement.

(2) If a historic property that has received a tax abatement under this part is disqualified, the owner is liable for back taxes, interest, and a penalty. These assessments must be extended against the property on the next general real property tax roll, to be collected and distributed in the same manner as the currently assessed real property tax. The back taxes, interest, and penalty must equal the sum of the following:

(a) the difference in the total real property taxes due during the years the tax abatement was in effect and the total real property taxes which would have been due had the special assessment not been in effect for those years;

(b) interest on the amount calculated in subsection (2)(a) at the rate for delinquent property taxes provided for in 15-16-102; plus

(c) a penalty of 15% on the sum of subsections (2)(a) and (2)(b).

(3) Back taxes, interest, or penalty may not be imposed on a property transferred to an ownership that makes the property exempt from property taxation or if the property is destroyed by fire or an act of God.

History: En. Sec. 7, Ch. 424, L. 1989.

Part 17
Commercial and Other Property

15-24-1701. Suspension and cancellation of collection of certain property taxes on commercial property — subordination of county tax lien — local government discretion. (1) The governing body of a county or consolidated local government unit may suspend collection of delinquent property taxes on commercial property to facilitate the purchase and continued operation of a business utilizing the commercial property if the property has not been used in a business for 6 months immediately preceding the date of suspension.

(2) The governing body may refuse to suspend delinquent taxes if it determines that the purchase of the commercial property is not an arm's-length transaction or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes or if the governing body determines the suspension is not in the best interest of the county.

(3) If the purchaser is obtaining financing as a part of a purchase agreement, the purchaser may request and the governing body may grant a subordination of the suspended tax lien to the financing. The request must include an operational plan, levels of employment, and other factors the governing body may consider important in determining if subordination of the county's tax lien position is in the best interest of the people of the county. Subordination does not diminish any other claims of tax lien as established by this section.

(4) Upon the request of the purchaser, the governing body may cancel the collection of the suspended delinquent property taxes, in accordance with 15-24-1702, after holding a public hearing and making a determination that canceling the suspended delinquent property taxes is in the best interest of the public. The governing body may not cancel the suspended delinquent property taxes if the purchaser is delinquent on taxes for any other property within the governing body's taxing jurisdiction.

History: En. Sec. 11(1) thru (3), Ch. 631, L. 1989; amd. Sec. 11, Ch. 16, L. 1991; amd. Sec. 1, Ch. 77, L. 1991; amd. Sec. 1, Ch. 189, L. 2019.

15-24-1702. Resolution to suspend or cancel delinquent taxes. (1) In order for the governing body to grant a suspension or cancellation of delinquent property taxes pursuant to this section, it shall adopt a resolution after:

(a) providing notice, as set forth in 7-1-2121;

(b) holding a public hearing; and

(c) notifying the governor's office of budget and program planning and the department of revenue about a proposed action to suspend or cancel delinquent property taxes. The governor's office of budget and program planning and the department of revenue shall consult with the governing body regarding the impact on programs that would result from the proposed granting of the suspension or cancellation of the delinquent property taxes, and the governing body shall consider the information before reaching a final decision.

(2) The resolution must state that the suspension or cancellation is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the new owner as required by the local government.

History: En. Sec. 11(4), Ch. 631, L. 1989; amd. Sec. 2, Ch. 422, L. 1993.

15-24-1703. Application of suspension or cancellation. The suspension or cancellation of delinquent property taxes pursuant to this part:

(1) applies to all mills levied in the county or otherwise required under state law, including levies or assessments required under Title 15, chapter 10, 20-9-331, and 20-9-333;

(2) does not apply to assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12.

History: En. Sec. 11(5), Ch. 631, L. 1989; amd. Sec. 4, Ch. 57, L. 2009.

15-24-1704. Terminated. Sec. 5, Ch. 422, L. 1993.

History: En. Sec. 1, Ch. 422, L. 1993.

Part 18
Business Incubators

Part Cross-References

Development coordination, Title 90, ch. 1.

15-24-1801. Definitions. Unless the context requires otherwise, the following definitions apply to 15-24-1802:

(1) "Business incubator" means a facility in which space is leased to new small businesses and that provides shared services and business assistance to the new businesses in order to improve their chances of success. The services provided may include but are not limited to receptionist, copying, computer, telephone, secretarial, and meeting services. The assistance provided may include but is not limited to advice concerning marketing plans, business plans, accounting, and administration.

(2) "Local economic development organization" means a private, nonprofit organization whose primary purposes are to develop the economy of its area and to provide assistance to businesses in that area.

History: En. Sec. 1, Ch. 666, L. 1989.

15-24-1802. Business incubator tax exemption — procedure. (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county, consolidated government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or leases and operates or will operate the business incubator.

(3) (a) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, consolidated government, city, town, or school district is located a writ of mandamus to compel the governing body to make a determination.

(4) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(5) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise required under state law.

(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 2, Ch. 666, L. 1989; amd. Sec. 1, Ch. 669, L. 1991; amd. Sec. 118, Ch. 27, Sp. L. November 1993; amd. Sec. 4, Ch. 597, L. 2005; amd. Sec. 6, Ch. 57, L. 2013.

Part 19
Industrial Parks

15-24-1901. Definitions. Unless the context requires otherwise, the following definitions apply to this part:

(1) "Industrial park" means property zoned for light and heavy industry. The term includes fully developed or partially developed land and improvements and undeveloped land. The term also includes undeveloped land owned by a local economic development organization if the local economic development organization provides reasonable evidence and the governing body is satisfied that the property is suitable for development as an industrial park and that the local economic development organization will develop the land as an industrial park.

(2) "Local economic development organization" means a private, nonprofit organization whose primary purposes are to develop the economy of its area and to provide assistance to businesses in that area.

(3) "Port authority" means a port authority created under 7-14-1101 or 7-14-1102.

History: En. Sec. 1, Ch. 679, L. 1989; amd. Sec. 1, Ch. 277, L. 1995.

15-24-1902. Industrial park tax exemption — procedure — termination. (1) An industrial park owned and operated by a local economic development organization or a port authority is eligible for an exemption from property taxes as provided in this section.

(2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county, consolidated government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that:

(a) the local economic development organization:

(i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(ii) is engaged in economic development and business assistance work in the area; and

(iii) owns and operates or will own and operate the industrial development park; or

(b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

(3) (a) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, consolidated government, city, town, or school district is located a writ of mandamus to compel the governing body to make a determination.

(4) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(5) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise required under state law.

(6) If a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

(7) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 2, Ch. 679, L. 1989; amd. Sec. 1, Ch. 702, L. 1991; amd. Sec. 119, Ch. 27, Sp. L. November 1993; amd. Sec. 5, Ch. 597, L. 2005; amd. Sec. 7, Ch. 57, L. 2013.

Part 20
Local Economic Development Organizations

15-24-2001. Definitions. Unless the context requires otherwise, the following definitions apply to this part:

(1) "Building and land" means commercial improvements and land sold or donated to a local economic development organization for subsequent sale or lease to a profit-oriented, employment-stimulating business. The term includes commercial property that has not been used in a business for 6 months immediately preceding the sale or donation of the building and land to the local economic development organization.

(2) "Local economic development organization" means a private, nonprofit organization whose primary purposes are to develop the economy of its area and to provide assistance to businesses in that area.

History: En. Sec. 1, Ch. 693, L. 1991.

15-24-2002. Building and land tax exemption — procedure — termination. (1) A building and land owned by a local economic development organization that the local economic development organization intends to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property taxes as provided in this section.

(2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county, consolidated government, incorporated city or town, or school district in which the building and land are located shall approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county, consolidated government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or will own the building and land.

(3) (a) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

(b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, consolidated government, city, town, or school district is located a writ of mandamus to compel the governing body to make a determination.

(4) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(5) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 and other levies required under state law.

(6) When a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

(7) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

History: En. Sec. 2, Ch. 693, L. 1991; amd. Sec. 4, Ch. 693, L. 1991; amd. Sec. 120, Ch. 27, Sp. L. November 1993; amd. Sec. 6, Ch. 597, L. 2005; amd. Sec. 8, Ch. 57, L. 2013.

Part 21
Abatement of Commercial or Industrial Property Taxes (Repealed)

15-24-2101. Repealed. Sec. 31, Ch. 361, L. 2015.
History: En. Sec. 1, Ch. 421, L. 2009.

15-24-2102. Repealed. Sec. 31, Ch. 361, L. 2015.
History: En. Sec. 2, Ch. 421, L. 2009.

15-24-2103. Repealed. Sec. 31, Ch. 361, L. 2015.
History: En. Sec. 3, Ch. 421, L. 2009.

Part 22 reserved

Part 23
Clean Coal Technology Projects (Repealed)

15-24-2301. Repealed. Sec. 2, Ch. 33, Sp. L. November 1993.
History: En. Sec. 1, Ch. 722, L. 1991.

15-24-2302. Repealed. Sec. 2, Ch. 33, Sp. L. November 1993.
History: En. Sec. 2, Ch. 722, L. 1991; amd. Sec. 121, Ch. 27, Sp. L. November 1993.

Part 24
Value-Added Manufacturing (Repealed)

15-24-2401. Repealed. Sec. 1, Ch. 37, L. 2013.
History: En. Sec. 1, Ch. 786, L. 1991.

15-24-2402. Repealed. Sec. 1, Ch. 37, L. 2013.
History: En. Sec. 2, Ch. 786, L. 1991; amd. Sec. 30, Ch. 51, L. 1999.

15-24-2403. Repealed. Sec. 1, Ch. 37, L. 2013.
History: En. Sec. 3, Ch. 786, L. 1991; amd. Sec. 33, Ch. 2, L. 2009; amd. Sec. 159, Ch. 56, L. 2009.

15-24-2404. Repealed. Sec. 1, Ch. 37, L. 2013.
History: En. Sec. 4, Ch. 786, L. 1991; amd. Sec. 7, Ch. 597, L. 2005.

15-24-2405. Repealed. Sec. 1, Ch. 37, L. 2013.
History: En. Sec. 5, Ch. 786, L. 1991.

Part 25
Trucks and Truck Tractors (Repealed)

15-24-2501. Repealed. Sec. 41, Ch. 496, L. 1997.
History: En. Sec. 8, Ch. 575, L. 1993.

Parts 26 through 29 reserved

Part 30
Electrical Generation and Delivery Facilities

15-24-3001. Repealed. Sec. 14, Ch. 13, L. 2021.
History: En. Sec. 1, Ch. 592, L. 2001; amd. Sec. 26, Ch. 128, L. 2011.

15-24-3002. Repealed. Sec. 14, Ch. 13, L. 2021.
History: En. Sec. 2, Ch. 592, L. 2001.

15-24-3003 reserved.

15-24-3004. Wind generation facility impact fee for local governmental units and school districts. (1) An owner or operator of a wind generation facility used for a commercial purpose is subject to an initial local governmental and local school impact fee to be paid for each year of the first 3 years after construction of the wind generation facility begins. The annual impact fee may not exceed 0.5% of the total cost of constructing the wind generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in 15-24-3005(1) and (2).

(b) Local governmental units may enter into an interlocal agreement as provided in 15-24-3005(3).

(3) (a) For the purposes of this section, "wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(b) The term does not include a wind generation facility used for noncommercial purposes or exclusively for agricultural purposes.

History: En. Sec. 2, Ch. 563, L. 2005; amd. Sec. 1, Ch. 109, L. 2015; amd. Sec. 1, Ch. 13, L. 2021.

Cross-References

Wind generation — decommissioning, Title 75, ch. 26, part 3.

15-24-3005. Wind generation facility impact fee for local governmental units and school districts. (1) Except as provided in subsection (3), the jurisdictional area of a local governmental unit in which a wind generation facility is located is the local governmental unit that is authorized to assess the impact fee pursuant to 15-24-3004(1).

(2) The impact fee must be distributed to the local governmental unit for local impacts and to the impacted school districts.

(3) Subject to the conditions of 15-24-3006 and subsection (4) of this section, if the wind generation facility is located within the jurisdictional areas of multiple local governmental units of the county or contiguous counties, the local governmental units may enter into an interlocal agreement under Title 7, chapter 11, part 1, to determine how the fee should be distributed among the various local governmental units and impacted school districts pursuant to subsection (2). The county in which the wind generation facility is located is authorized to assess the fee under the interlocal agreement.

(4) For purposes of 15-24-3004, a "local governmental unit" means a county, city, or town. If a wind generation facility is located within a tax increment financing district, the tax increment financing district is considered a local governmental unit and is entitled to the distribution of impact fees under this section. A tax increment financing district may not receive a distribution of impact fees if a wind generation facility is not located within the district.

(5) Impact fees imposed under 15-24-3004(2)(b) or under subsection (3) of this section must be deposited in the county electrical energy generation impact fee reserve account established in 15-24-3006 for the county in which the wind generation facility is located. Money in the account may not be expended until the multiple local governmental units have entered into an interlocal agreement.

History: En. Sec. 3, Ch. 592, L. 2001; amd. Sec. 16, Ch. 130, L. 2005; amd. Sec. 8, Ch. 563, L. 2005; amd. Sec. 2, Ch. 13, L. 2021.

15-24-3006. Electrical energy generation impact fee reserve account. (1) The governing body of a county receiving impact fees under 15-24-3004(2)(b) or that received impact fees from an electrical generation facility under former 15-24-3005(4) before the amendments in Chapter 13, Laws of 2021, shall establish or hold the collections in the electrical energy generation impact fee reserve account. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose of an interlocal agreement provided for in 15-24-3004 or 15-24-3005. The county treasurer shall distribute money in the account to each local governmental unit according to the terms of the interlocal agreement.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the electrical energy generation impact fee reserve account must be credited to the account.

History: En. Sec. 4, Ch. 592, L. 2001; amd. Sec. 9, Ch. 563, L. 2005; amd. Sec. 3, Ch. 13, L. 2021.

15-24-3007. Electrical generation impact fund. (1) A local governmental unit, as defined in 15-24-3005, and a school district that receives impact fees pursuant to 15-24-3004(2)(a), former 15-24-3005(2) before the amendments in Chapter 13, Laws of 2021, 15-24-3005, or 15-24-3006 shall establish or retain the electrical generation impact fund for the deposit or expenditure of the fees. A local governmental unit or school district may retain the money in the fund for any time period considered appropriate by the governing body of the local governmental unit or school district. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund by a city, town, or county under the provisions of Title 7, chapter 6, part 40, or by a school district under the provisions of Title 20, chapter 9, part 5.

History: En. Sec. 5, Ch. 592, L. 2001; amd. Sec. 10, Ch. 563, L. 2005; amd. Sec. 4, Ch. 13, L. 2021.

Part 31
Property Related to Renewable Energy, New Energy Technology, and Clean Coal

Part Cross-References

Geothermal research, 90-3-1301.

15-24-3101. Policy. It is the policy of the state of Montana that the tax classifications, rates, abatements, and exemptions in 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 are to be strictly limited to new investments that qualify under the standards established in 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157. The provisions of 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 do not apply to any previously existing properties or to any new investments or property that does not qualify under 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157. It is also the policy of the state of Montana that the classifications, rates, abatements, and exemptions in 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 are to encourage investment in energy development that is consistent with maintaining a clean and healthful environment and that may not otherwise occur without 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157. Sections 15-6-158 and 15-6-159 and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 are not to be interpreted as a precedent for reducing the taxation of any other property in the state or for affecting the use of any property valuation method for tax purposes established under law to meet the standards of the Montana constitution and law. The department of environmental quality and the department of revenue are directed to administer and interpret 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 strictly in accordance with this policy. Any ambiguities in 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 are to be resolved in favor of the strict reading of this policy.

History: En. Sec. 2, Ch. 2, Sp. L. May 2007.

15-24-3102. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Biodiesel" has the meaning provided in 15-70-401.

(2) "Biodiesel production facility" means improvements and personal property used for the production and onsite storage of biodiesel.

(3) "Biogas" means methane gas produced through controlled biochemical processes in which bacteria digest animal, municipal, or other organic wastes in an oxygen-free environment. The term includes naturally occurring methane gas formed underground in landfills.

(4) "Biogas production facility" means improvements and personal property used for the production of biogas and the generation of electricity at the facility.

(5) "Biomass" means any renewable organic matter, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, municipal wastes, and other organic waste materials.

(6) "Biomass gasification" means a technology that uses a thermochemical process to convert biomass into a low-Btu or medium-Btu gas for the purpose of producing electricity, methane gas, transportation fuels, or chemicals. The technology includes the pretreatment of biomass feedstock involving drying, pulverizing, and screening.

(7) "Biomass gasification facility" means improvements and personal property used for the production of fuel or chemicals and the generation of electricity from biomass at the facility.

(8) "Carbon sequestration" means the long-term storage of carbon dioxide from a plant or facility that produces or captures carbon dioxide, as defined in 15-6-158, in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(9) "Clean advanced coal research and development equipment" means equipment used primarily for research and development of emerging methods for pollution control, carbon capture, and carbon sequestration. The term includes equipment used for research and development of effective and efficient removal of various pollutants and the capture, storage, transportation, compression, and injection of carbon dioxide from coal combustion utility and industrial facilities and advanced coal conversion facilities.

(10) "Coal gasification" means a process that converts coal into a synthesis gas composed of carbon monoxide, hydrogen, and other gases. The coal gasification process includes the reaction of coal feedstock, prepared in either a dry or slurried form, with steam and oxygen at high temperature and pressure in a reducing atmosphere. The synthesis gas is then used to produce electricity, liquid fuels, methane gas, or chemicals.

(11) "Coal gasification facility" means improvements and personal property used for coal gasification that are used for the production of fuel or chemicals, the generation of electricity, or any combination of those things at the facility. The term includes a coal-to-liquid facility or an integrated gasification combined cycle facility.

(12) "Coal-to-liquid facility" means improvements and personal property used for the production of synthetic liquid fuels from coal. The term includes a facility that uses the Fischer-Tropsch process or other processes to convert synthesis gas produced by coal gasification into liquid fuel.

(13) "Commencement of construction" means initiation of onsite fabrication, erection, or installation of, but not limited to, the following:

(a) building supports or foundations;

(b) laying of underground pipework; or

(c) construction of storage structures.

(14) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(15) "Ethanol production facility" means improvements and personal property used for the production and onsite storage of ethanol made from cellulose or other nonfoodstuff materials.

(16) "Geothermal facility" means improvements and personal property used for the production of electricity from geothermal sources.

(17) "Integrated gasification combined cycle facility" means improvements and personal property of an electrical generation facility that uses a coal gasification process and routes synthesis gas to a combustion turbine to generate electricity and captures the heat from the combustion to drive a steam turbine to produce more electricity. The facility may also use incidental amounts of natural gas or other fuels in the combustion turbine.

(18) "Renewable diesel" means a biomass-derived fuel that is suitable for use in diesel engines that is hydrocarbon produced by hydrotreating and also through gasification, pyrolysis, or other biochemical and thermochemical technology, or any combination of these technologies. The term includes renewable diesel fuel that meets the ASTM D975 specification for petroleum diesel in the United States.

(19) "Renewable diesel production facility" means improvements and personal property used for the production and onsite storage of renewable diesel.

(20) "Renewable energy" includes the following:

(a) solar energy;

(b) wind energy;

(c) geothermal energy;

(d) energy from the conversion of biomass;

(e) energy from biogas;

(f) energy from fuel cells that do not require a petroleum-based fuel;

(g) energy from waste heat; and

(h) cellulosic ethanol.

(21) (a) "Renewable energy manufacturing facility" means improvements and personal property used by a facility with its principal business being the manufacturing of material, component parts, systems, or similar equipment for use in facilities that convert renewable energy into forms of energy useful to people, including electricity. The term includes facilities for manufacturing of electric motor vehicles or hybrid electric motor vehicles.

(b) For purposes of subsection (21)(a), "principal business" means a renewable energy manufacturing facility with at least 50%, by value, of its annual production suitable for sale as renewable energy material, component parts, systems, or similar equipment.

(22) "Renewable energy research and development equipment" means equipment used primarily for research and development of the efficient use of renewable energy sources. The term includes equipment used for research and development of electric motor vehicles or hybrid electric motor vehicles.

(23) "Sustainable aviation fuel" means an aviation fuel derived from renewable resources that enables a reduction in net life cycle carbon dioxide emissions compared to conventional fuels. The term includes fuel that meets the ASTM D7566 specification for nonpetroleum synthesized jet fuel in the United States.

(24) "Sustainable aviation fuel production facility" means improvements and personal property used for the production and onsite storage of sustainable aviation fuel.

History: En. Sec. 3, Ch. 2, Sp. L. May 2007; amd. Sec. 4, Ch. 692, L. 2023.

15-24-3103 through 15-24-3110 reserved.

15-24-3111. Energy production or development — tax abatement — eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to this part.

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(d) A renewable diesel production facility or sustainable aviation fuel production facility, or both, may not receive the abatement provided for in this section during the same tax year that the new or expanding industry property tax abatement provided for in 15-24-1402 is claimed on the same property.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under this part:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;
(g) renewable diesel production facilities;
(h) renewable energy manufacturing facilities;
(i) clean advanced coal research and development equipment and renewable energy research and development equipment;
(j) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;
(k) transmission lines and associated equipment and structures classified in 15-6-157;
(l) converter stations classified under 15-6-159;
(m) carbon sequestration equipment as defined in 15-6-158;
(n) pipelines classified under 15-6-158; and
(o) sustainable aviation fuel production facilities.

(4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet the following requirements:
(i) commencement of construction of the facility must occur after June 1, 2007; and
(ii) the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under this part, clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(j), the facility shall offset carbon dioxide emissions by the percentage determined in 15-24-3116.

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in 15-24-3112.

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15 years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years.

History: En. Sec. 4, Ch. 2, Sp. L. May 2007; amd. Sec. 9, Ch. 277, L. 2009; amd. Sec. 5, Ch. 692, L. 2023.

15-24-3112. Certification. (1) (a) Upon application by a taxpayer, the department of environmental quality shall determine whether a facility or equipment qualifies for a tax abatement under 15-24-3111 or rules adopted under 15-24-3116. If the department determines that a facility or equipment qualifies for abatement or a classification, it shall issue a certification of eligibility.

(b) An application for certification must be made on forms available from the department.

(c) Certification remains in effect only as long as substantial compliance with this part continues.

(2) The department of environmental quality shall identify and track compliance with this part in the use of certified property. The department may revoke a certification for failure to maintain substantial compliance with eligibility requirements in 15-24-3111 or with rules adopted pursuant to 15-24-3116. Revocation of a certificate must be reported to the department of revenue within 30 days of revocation.

(3) If a taxpayer's certification is revoked, the taxpayer forfeits the abatement or classification under 15-6-157 or 15-6-158. Upon revocation, the property must be assessed at 100% of its taxable value beginning on January 1 of the year or years for which the certification is revoked. Any remaining abatement must be forfeited. The taxpayer is immediately liable for any additional taxes, penalty, and interest resulting from the revocation.

(4) A taxpayer that has forfeited any portion of its abatement because of revocation may not reapply for an abatement under this part.

(5) A taxpayer aggrieved by a determination made by the department of environmental quality or the department of revenue has the right to the review procedures in 15-1-211, to mediation under 15-1-212, and to a hearing under Title 2, chapter 4, part 6.

History: En. Sec. 5, Ch. 2, Sp. L. May 2007; amd. Sec. 8, Ch. 419, L. 2013.

15-24-3113 through 15-24-3115 reserved.

15-24-3116. Rules. (1) The department of revenue shall adopt rules for the implementation of this part, including the valuation of qualifying property and administration of property certified under 15-24-3112 or classified under 15-6-157 or 15-6-158.

(2) The department of environmental quality shall adopt rules necessary for certification, compliance, and revocation of certificates, as provided in 15-24-3112, and for classification as class fourteen property, as provided in 15-6-157, or class fifteen property, as provided in 15-6-158. The rules may include specifying procedures, including timeframes for certification application, and definitions necessary to identify property for certification and compliance. The percentage of the carbon dioxide produced by a facility that is to be sequestered or offset must be based on technology that is practically obtainable as determined by the department.

History: En. Sec. 6, Ch. 2, Sp. L. May 2007.

Part 32
Gray Water Systems
(Repealed)

15-24-3201. Repealed. Sec. 1, Ch. 114, L. 2023.
History: En. Sec. 1, Ch. 405, L. 2011.

15-24-3202. Repealed. Sec. 1, Ch. 114, L. 2023.
History: En. Sec. 2, Ch. 405, L. 2011; amd. Sec. 27, Ch. 361, L. 2015.

15-24-3203. Repealed. Sec. 1, Ch. 114, L. 2023.
History: En. Sec. 3, Ch. 405, L. 2011; amd. Sec. 28, Ch. 361, L. 2015.

15-24-3204. Repealed. Sec. 1, Ch. 114, L. 2023.
History: En. Sec. 4, Ch. 405, L. 2011.

15-24-3205 through 15-24-3210 reserved.

15-24-3211. Repealed. Sec. 1, Ch. 114, L. 2023.
History: En. Sec. 5, Ch. 405, L. 2011; amd. Sec. 2, Ch. 3, L. 2015; amd. Sec. 10, Ch. 163, L. 2019.

CHAPTER 25
DANGEROUS DRUG TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-25-101. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 1, Ch. 563, L. 1987.

15-25-102. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 2, Ch. 563, L. 1987.

15-25-103 through 15-25-110 reserved.

15-25-111. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 3, Ch. 563, L. 1987; amd. Sec. 1, Ch. 421, L. 1989.

15-25-112. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 4, Ch. 563, L. 1987.

15-25-113. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 5, Ch. 563, L. 1987.

15-25-114. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 6, Ch. 563, L. 1987; amd. Sec. 7, Ch. 811, L. 1991.

15-25-115. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 7, Ch. 563, L. 1987; amd. Sec. 2, Ch. 421, L. 1989.

15-25-116 through 15-25-120 reserved.

15-25-121. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 8, Ch. 563, L. 1987; amd. Sec. 3, Ch. 421, L. 1989.

15-25-122. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 9, Ch. 563, L. 1987; amd. Sec. 13, Ch. 83, L. 1989; amd. Sec. 4, Ch. 421, L. 1989; amd. Sec. 15, Ch. 799, L. 1991; amd. Sec. 3, Ch. 455, L. 1993.

15-25-123. Repealed. Sec. 74, Ch. 18, L. 1995; Sec. 4, Ch. 446, L. 1995.
History: En. Sec. 10, Ch. 563, L. 1987; amd. Sec. 14, Ch. 83, L. 1989.

CHAPTER 26
RESERVED

CHAPTER 27
AMBULANCE PROVIDER ASSESSMENT FEE

Part 1 — Ambulance Provider Assessment Fee

15-27-101. Definitions.
15-27-102. Ambulance provider assessment fee.
15-27-103. Relation to other taxes and fees.
15-27-104. Rulemaking authority.
15-27-105. Reporting and collection of assessment fee.
15-27-106. Audit — records.
15-27-107. Periods of limitation.
15-27-108. Penalty and interest for delinquent fee.
15-27-109. Estimated assessment fee on failure to file.
15-27-110. Deficiency assessment — penalty and interest — hearing.
15-27-111. Closing agreements.
15-27-112. Credit for overpayment — interest on overpayment.
15-27-113. Warrant for distraint.

Chapter Compiler's Comments

Direction to Department of Revenue: Section 16, Ch. 420, L. 2025, provided: "The legislature directs the department of revenue to delay collection of the assessment fee provided for in [section 2] [15-27-102] until the department of public health and human services notifies the department of revenue that the centers for medicare and medicaid services has approved the payments provided for in [section 14] [53-6-152]."

Termination: Section 21, Ch. 420, L. 2025, provided: "[This act] terminates June 30, 2033."

Contingent Effective Date: Section 19, Ch. 420, L. 2025, provided: "[This act] is effective on approval by the United States department of health and human services of all waivers and approvals necessary to implement the assessment fee and supplemental payments as provided in [sections 1 through 15] [this chapter, 53-6-152, and amendments to 17-7-502]. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency."

Contingent Voidness: Section 20, Ch. 420, L. 2025, provided: "(1) [Sections 1 through 15] [This chapter, 53-6-152, and amendments to 17-7-502] are void on the date that federal law or policy is amended so that the assessment fee collected pursuant to [sections 1 through 15] may not be considered as the state's share in claiming federal financial participation under the medicaid program. The department of public health and human services shall submit certification of the change in federal law or policy to the code commissioner within 15 days of the occurrence of the contingency.

(2) If [sections 1 through 15] [this chapter, 53-6-152, and amendments to 17-7-502] are rendered void under the provisions of this section, all fees received or collected by the department of revenue prior to the date on which the act becomes void must be deposited in accordance with [section 2] [15-27-102], and a person or party may not receive a refund of any fees received or collected by the department prior to the date on which [sections 1 through 15] become void.

(3) If the United States department of health and human services fails to approve the ambulance provider supplemental payments, [sections 1 through 15] [this chapter, 53-6-152, and amendments to 17-7-502] are void. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency."

Part 1
Ambulance Provider Assessment Fee

15-27-101. *(Temporary — effective on occurrence of contingency)* **Definitions.** As used in this part, the following definitions apply:

(1) "Air ambulance services" means ambulance services provided by aircraft as defined in 50-6-302.

(2) (a) "Ambulance provider" means a person licensed pursuant to 50-6-306.

(b) The term does not include:

(i) an entity that exclusively provides air ambulance services;

(ii) an entity operated by the United States, an Indian tribe, or any facility authorized under the Indian Health Care Improvement Act; or

(iii) a public ambulance provider.

(3) "Assessment fee" means the ambulance provider assessment fee as provided in 15-27-102.

(4) "Department" means the department of revenue provided for in 2-15-1301.

(5) "Emergency ambulance services" means any service delivered by an ambulance provider other than air ambulance services.

(6) (a) "Net operating revenue" means gross revenue collected by ambulance providers for the delivery of emergency ambulance services, minus amounts deducted for bad debt, charity care, and payer discounts.

(b) The term does not include nonpatient service-related revenue.

(7) "Public ambulance provider" means an ambulance provider that is incorporated under Title 7. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 1, Ch. 420, L. 2025.

15-27-102. *(Temporary — effective on occurrence of contingency)* **Ambulance provider assessment fee.** (1) Each ambulance provider shall pay to the department a uniform assessment fee of 5.75% of net operating revenues.

(2) After the administration costs of the department are deducted, the department shall deposit the remaining proceeds from collection of the assessment fee in the ambulance provider special revenue account provided for in 53-6-152. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 2, Ch. 420, L. 2025.

Compiler's Comments

Direction to Department of Revenue: Section 16, Ch. 420, L. 2025, provided: "The legislature directs the department of revenue to delay collection of the assessment fee provided for in [section 2] [15-27-102] until the department of public health and human services notifies the department of revenue that the centers for medicare and medicaid services has approved the payments provided for in [section 14] [53-6-152]."

15-27-103. *(Temporary — effective on occurrence of contingency)* **Relation to other taxes and fees.** The assessment fee imposed under 15-27-102 is, in addition to any other taxes and fees, required to be paid by ambulance providers. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 3, Ch. 420, L. 2025.

15-27-104. *(Temporary — effective on occurrence of contingency)* **Rulemaking authority.** The department may adopt rules necessary to administer this part. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 4, Ch. 420, L. 2025.

15-27-105. *(Temporary — effective on occurrence of contingency)* **Reporting and collection of assessment fee.** (1) On or before June 30 each year, an ambulance provider shall file with the department a report of its net operating revenue received during the previous calendar year. The report must be:

(a) in the form prescribed by the department; and

(b) accompanied by a payment in an amount equal to the assessment fee required to be paid under 15-27-102.

(2) Revenue received for all emergency ambulance services provided during the calendar year must be included in the calculation of the ambulance provider's net operating revenue regardless of the source of payment for the services rendered, including services covered under fee-for-service and managed care arrangements.

(3) In the case of a transfer of ownership, the successor in interest to the ambulance provider assumes the liability for the assessment fee. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 5, Ch. 420, L. 2025.

15-27-106. *(Temporary — effective on occurrence of contingency)* **Audit — records.** (1) The department may audit the records and other documents of an ambulance provider to ensure that the proper assessment fee has been collected.

(2) The department may require the ambulance provider to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the assessment fee paid.

(3) An ambulance provider shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate how the ambulance provider's net operating revenue was calculated. The ambulance provider shall maintain the records for at least 5 years from the date the report is due. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 6, Ch. 420, L. 2025.

15-27-107. *(Temporary — effective on occurrence of contingency)* **Periods of limitation.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for the assessment of the fees, the ambulance provider consents in writing to an assessment after the 5-year period, the fees may be assessed at any time prior to the expiration of the period agreed on.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the ambulance provider files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the ambulance provider has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period for filing a claim for a refund or credit or for allowing a refund or credit if no claim is filed, is automatically extended. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 7, Ch. 420, L. 2025.

15-27-108. *(Temporary — effective on occurrence of contingency)* **Penalty and interest for delinquent fee.** If an ambulance provider does not pay the required assessment fee on or before the due date of the report as provided in 15-27-105, penalty and interest, as provided in 15-1-216, must be added to the assessment fee. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 8, Ch. 420, L. 2025.

15-27-109. *(Temporary — effective on occurrence of contingency)* **Estimated assessment fee on failure to file.** For the purposes of ascertaining the correctness of any report, the department may:

(1) examine or cause to have examined by a designated agent or representative any books, papers, records, or memoranda bearing on the information required to be included in the report;

(2) require the attendance of any officer or employee of the ambulance provider making the report or the attendance of any other persons having relevant knowledge; and

(3) take testimony and require the production of any other material for its information. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 9, Ch. 420, L. 2025.

15-27-110. *(Temporary — effective on occurrence of contingency)* **Deficiency assessment — penalty and interest — hearing.** (1) (a) If the department determines that the amount of the assessment fee due is greater than the amount disclosed by the report, it shall mail the ambulance provider a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the ambulance provider may file with the department a written protest against the proposed additional fees stating the grounds on which the protest is based. The ambulance provider may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fee liability.

(b) If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final on the expiration of the 30-day period.

(c) If a protest is filed, the department shall reconsider the proposed assessment and, if the ambulance provider has requested, shall grant the provider an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action on the protest is final when it mails notice of its action to the ambulance provider.

(2) When a deficiency is determined and the fees become final, the department shall mail a notice and demand to the ambulance provider for payment. Penalty and interest may be added to any deficiency assessment as provided in 15-1-216. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 10, Ch. 420, L. 2025.

15-27-111. *(Temporary — effective on occurrence of contingency)* **Closing agreements.** (1) The director of the department or a person authorized in writing by the director may enter into an agreement with an ambulance provider relating to the liability of the provider in respect to fees imposed by this part.

(2) An agreement under this section is final and conclusive, and, except on a showing of fraud, malfeasance, or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed on or the agreement modified by an officer, employee, or agent of this state; and

(b) in a suit, action, or proceeding under the agreement or a determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 11, Ch. 420, L. 2025.

15-27-112. *(Temporary — effective on occurrence of contingency)* **Credit for overpayment — interest on overpayment.** (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the ambulance provider and the balance must be refunded to the ambulance provider or its successor through reorganization, merger, or consolidation or to its shareholders on dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216. Interest is due from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during a period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the ambulance provider to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than $1.

(4) A payment not made incident to a discharge of actual ambulance provider assessment fee liability or payment reasonably assumed to be imposed under this part is not considered an overpayment with respect to which interest is allowable. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 12, Ch. 420, L. 2025.

15-27-113. *(Temporary — effective on occurrence of contingency)* **Warrant for distraint.** If the assessment fee is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Void on occurrence of contingency—sec. 20, Ch. 420, L. 2025—see chapter compiler's comment; terminates June 30, 2033—sec. 21, Ch. 420, L. 2025.)*

History: En. Sec. 13, Ch. 420, L. 2025.

CHAPTERS 28 AND 29
RESERVED

CHAPTER 30
INDIVIDUAL INCOME TAX

Part 1 — Rate and Return of Tax (Renumbered, Repealed, and Terminated)

Part 2 — Withholding and Estimated Tax (Renumbered and Repealed)

Part 3 — Administration and Collection (Renumbered and Repealed)

Parts 4 and 5 reserved

Part 6 — Particular Income Tax Applications (Renumbered)

Parts 7 through 10 reserved

Part 11 — Pass-Through Entities (Renumbered)

Parts 12 through 20 reserved

Part 21 — Rate and General Provisions

15-30-2101. Definitions.
15-30-2102. Construction of income.
15-30-2103. Rate of tax — net long-term capital gains — definitions.
15-30-2104. Tax on nonresident.
15-30-2105. Tax on lump-sum distributions.
15-30-2106. Nonresident compensation — exclusion.
15-30-2107 through 15-30-2109 reserved.
15-30-2110. Repealed.
15-30-2111. Repealed.
15-30-2112. Change from nonresident to resident or vice versa.
15-30-2113. Determination of status — effect of status elections.
15-30-2114. Repealed.
15-30-2115. Repealed.
15-30-2116. Repealed.
15-30-2117. Repealed.
15-30-2118. Taxable liability on termination of independent liability fund.
15-30-2119. Repealed.
15-30-2120. Adjustments to federal taxable income to determine Montana taxable income.
15-30-2121 through 15-30-2130 reserved.
15-30-2131. Repealed.
15-30-2132. Repealed.
15-30-2133. Repealed.
15-30-2134 through 15-30-2140 reserved.
15-30-2141. Repealed.
15-30-2142. Repealed.
15-30-2143. Repealed.
15-30-2144. Repealed.

15-30-2145 through 15-30-2150 reserved.
15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.
15-30-2152. Repealed.
15-30-2153. Determination of tax of estates and trusts.
15-30-2154. Estates and trusts tax remedies.
15-30-2155 through 15-30-2190 reserved.
15-30-2191. Terminated.

Part 22 reserved

Part 23 — Specific Tax Credits and Tax Checkoffs

15-30-2301. Repealed.
15-30-2302. Credit allowed resident taxpayers for income taxes imposed by foreign states or countries.
15-30-2303. Tax credits subject to review by interim committee.
15-30-2304 through 15-30-2317 reserved.
15-30-2318. Earned income tax credit.
15-30-2319. Repealed.
15-30-2320. Repealed.
15-30-2321. Adoption tax credit — rulemaking.
15-30-2322 through 15-30-2325 reserved.
15-30-2326. Repealed.
15-30-2327. Qualified endowments credit — definitions — rules.
15-30-2328. Credit for contributions to qualified endowment — recapture of credit — deduction included as income.
15-30-2329. Beneficiaries of estates — credit for contribution to qualified endowment.
15-30-2330 through 15-30-2333 reserved.
15-30-2334. Credit for providing supplemental funding to public schools — innovative educational program.
15-30-2335. Qualified education individual income tax credit for contributions to student scholarship organization.
15-30-2336. Repealed.
15-30-2337. Residential property tax credit for elderly — definitions.
15-30-2338. Residential property tax credit for elderly — eligibility — disallowance or adjustment.
15-30-2339. Residential property tax credit for elderly — filing date.
15-30-2340. Residential property tax credit for elderly — computation of relief.
15-30-2341. Residential property tax credit for elderly — limitations — denial of claim.
15-30-2342. Credit for preservation of historic buildings.
15-30-2343 through 15-30-2355 reserved.
15-30-2356. Repealed.
15-30-2357. Tax credit for hiring registered apprentice or veteran apprentice.
15-30-2358. Repealed.
15-30-2359. Tax credit for trades education and training.
15-30-2360 reserved.
15-30-2361. Grow Montana jobs — annual job growth incentive tax credit.
15-30-2362 and 15-30-2363 reserved.
15-30-2364. Repealed.
15-30-2365. Repealed.
15-30-2366. Repealed.
15-30-2367. Repealed.
15-30-2368. Repealed.
15-30-2369. Repealed.
15-30-2370. Repealed.
15-30-2371. Repealed.
15-30-2372. Repealed.
15-30-2373. Repealed.
15-30-2374 through 15-30-2379 reserved.
15-30-2380. Credit for unlocking public lands program — definitions.
15-30-2381. Repealed.
15-30-2382 through 15-30-2385 reserved.
15-30-2386. Funding for administration of special revenue accounts.
15-30-2387. Voluntary checkoff for nongame wildlife programs.
15-30-2388. Agriculture literacy in Montana schools program account — administration.
15-30-2389. Voluntary checkoff for agriculture literacy in Montana schools program.
15-30-2390. Voluntary checkoff for child abuse and neglect prevention program.
15-30-2391 reserved.
15-30-2392. Voluntary checkoff for Montana military relief fund.
15-30-2393. Election to deposit refund to education savings or ABLE account.

Part 24 reserved

Part 25 — Estimated Tax and Withholding

15-30-2501. Definitions.
15-30-2502. Withholding of tax from wages.
15-30-2503. Employer liable for withholding taxes and statements.
15-30-2504. Schedules for remitting income withholding taxes — records.
15-30-2505. Amount withheld considered as tax collected.
15-30-2506. Annual withholding statement.
15-30-2507. Annual statement by employer.
15-30-2508. Withheld taxes held in trust for state.
15-30-2509. Violations by employer — penalties, interest, remedies, and waivers — rulemaking.
15-30-2510. Remitting withholding taxes electronically — employer option — timely remittance.
15-30-2511. Voluntary state withholding from federal annuity — agreement with federal government.
15-30-2512. Estimated tax — payment — exceptions — interest.
15-30-2513. Withholding from compensation — exception.
15-30-2514 through 15-30-2520 reserved.
15-30-2521. Policy and purpose.
15-30-2522. Withholding of lottery winnings.
15-30-2523. Determination of employer status.
15-30-2524 through 15-30-2530 reserved.
15-30-2531. Credits and refunds — period of limitations.
15-30-2532 through 15-30-2535 reserved.
15-30-2536. Short title.
15-30-2537. Definitions.
15-30-2538. Withholding required on mineral royalty payments.
15-30-2539. Withholding — no application under certain conditions.
15-30-2540. Remitter liable for withholding taxes and statements — liability mitigation — sufficiency of mailing address.
15-30-2541. Royalty withholding tax remittance schedule — alternative schedules and methods — records.
15-30-2542. Amount of royalty payment withheld considered taxes collected.
15-30-2543. Annual withholding statement to royalty owner.
15-30-2544. Remitter to furnish annual statement to department.
15-30-2545. Withheld taxes held in trust for state.
15-30-2546. Violations by remitter — penalties — interest — remedies — waivers — rulemaking.
15-30-2547. Rulemaking authority.

Part 26 — Collection and Administration

15-30-2601. Tax as personal debt.
15-30-2602. Returns and payment of tax — penalty and interest — refunds — credits.
15-30-2603. Return of fiduciary.
15-30-2604. Time for filing — extensions of time.
15-30-2605. Revision of return by department — statute of limitations — examination of records and persons.
15-30-2606. Tolling of statute of limitations — consent to extend time to assess tax.
15-30-2607. Application for revision — appeal.
15-30-2608. Judicial review.
15-30-2609. Credits and refunds — period of limitations.
15-30-2610 through 15-30-2615 reserved.
15-30-2616. Information agents' duties.
15-30-2617. Oaths administered by director of revenue and designated employees.
15-30-2618. Confidentiality of tax records.
15-30-2619. Furnishing copy of federal return — copy of share of income, credit, and deductions schedule — copies of federal corrections — filing amended return required.
15-30-2620. Department rules — conformance with Internal Revenue Code.
15-30-2621. Agreements with contiguous states.
15-30-2622. Closing agreements.
15-30-2623 through 15-30-2628 reserved.
15-30-2629. Authority to collect tax — offset — hearing.
15-30-2630. Warrant for distraint.
15-30-2631. Jeopardy assessments.
15-30-2632. Deferment of taxes for person in military service — filing of return.
15-30-2633. Stay of enforcement against military personnel.
15-30-2634. Failure to file return or report — order to show cause — action by department.
15-30-2635 through 15-30-2640 reserved.
15-30-2641. Repealed.
15-30-2642. Notice of additional assessment — penalty and interest for deficiency.
15-30-2643. Time limitations for prosecution.
15-30-2644 and 15-30-2645 reserved.
15-30-2646. Relief from joint and several liability on joint return — limitations — rules.
15-30-2647 through 15-30-2650 reserved.
15-30-2651. Certified copies of tax returns to taxpayer — fee.
15-30-2652 through 15-30-2659 reserved.
15-30-2660. Taxpayer integrity fees.

Parts 27 through 29 reserved

Part 30 — Special Income Tax Applications

15-30-3001. Short title.
15-30-3002. Definitions.
15-30-3003. Montana farm and ranch risk management account — deposits — exclusion from income.
15-30-3004. Montana farm and ranch risk management account — creation — administration.
15-30-3005. Montana farm and ranch risk management account — distributions.

Part 31 — Tax Credit for Qualified Education Contributions

15-30-3101. Purpose.
15-30-3102. Definitions.
15-30-3103. Requirements for student scholarship organizations.
15-30-3104. Tuition payment limitation.
15-30-3105. Reporting requirements for student scholarship organizations.
15-30-3106. Student scholarship organizations — listing on website.
15-30-3107 through 15-30-3109 reserved.
15-30-3110. Credit for providing supplemental funding to public schools — innovative educational program.
15-30-3111. Qualified education tax credit for donations to student scholarship organizations.
15-30-3112. Report to revenue interim committee — student scholarship organizations.
15-30-3113. Review determination — termination — confidentiality.
15-30-3114. Rulemaking.

Part 32 reserved

Part 33 — Small Business and Pass-Through Entities

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15-30-3302. Income or license tax involving pass-through entities — information returns required.
15-30-3303 through 15-30-3310 reserved.
15-30-3311. Taxation of partners, shareholders, managers, and members.
15-30-3312. Composite returns and tax.
15-30-3313. Consent or withholding — rulemaking.
15-30-3314. Review of pass-through entity taxation by department.
15-30-3315. Electronic partnership return required — waiver — rulemaking.
15-30-3316 through 15-30-3320 reserved.
15-30-3321. Small business option unavailable on dissolution — exception.
15-30-3322 through 15-30-3324 reserved.
15-30-3325. Definitions.
15-30-3326. Pass-through entity tax.
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Part 34 — Partnership Audit Adjustments

15-30-3401. Definitions.
15-30-3402. State partnership representative.
15-30-3403. Reporting and payment requirements for partnerships subject to final federal adjustment and their direct partners.
15-30-3404. Election — partnership pays — rulemaking.
15-30-3405. Modified reporting and payment method.
15-30-3406. Effect of election by audited partnership or tiered partner and payment of amount due.
15-30-3407. De minimis exception — rulemaking.
15-30-3408. Estimated tax payments during course of federal audit.

Parts 35 and 36 reserved

Part 37 — Montana Entrepreneur Magnet Act

15-30-3701. Short title.
15-30-3702. Definitions.
15-30-3703. Taxation of qualifying net capital gains from sale of capital stock — conditions — rulemaking.
15-30-3704. Tax on qualifying net capital gains.

Chapter Compiler's Comments

Transition: Section 67, Ch. 503, L. 2021, provided: "(1) As used in this section, the following definitions apply:

(a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's Montana taxable income related to transition items provided in subsection (3).

(b) "Transition item" means any difference arising prior to January 1, 2024, from a difference in federal and Montana income tax laws in:

(i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;

(ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense; or

(iii) the basis of an asset or liability that will not, after December 31, 2023, increase or decrease a taxpayer's federal taxable income.

(2) An adjustment to Montana taxable income may not be made to take transition items into account except as provided in subsection (3).

(3) On or before the due date, including extensions, of a return for the tax year ending after December 31, 2023, and before January 1, 2025, a taxpayer may, on forms prescribed by the department, file an election to make a transition adjustment to Montana taxable income. The election must specify and account for all transition items, including but not limited to the following:

(a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2023, and before January 1, 2025, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2023, and before January 1, 2025, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA pursuant to section 408A(d)(3) of the Internal Revenue Code but included all the income in the taxpayer's Montana income tax return, the sum of the balance of the federal deferred amount as of January 1, 2024, is a negative adjustment to the taxpayer's Montana taxable income.

(d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers and net operating loss carrybacks under section 172(a) of the Internal Revenue Code in a tax year ending after December 31, 2023, and before January 1, 2025, if the taxpayer's federal net operating loss is different from the taxpayer's Montana net operating loss as of December 31, 2023, no adjustment to the taxpayer's Montana taxable income may be made.

(e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year beginning after December 31, 2022, resulted in a reduction of Montana income tax liability, the refund is, to the extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the taxpayer's Montana taxable income.

(4) The department of revenue is authorized to adopt rules and require facts and information to be reported that it considers necessary to administer the transition adjustment provided in this section."

Chapter Cross-References

Reservation of power to tax certain persons and property within land purchased by United States under Art. I, sec. 8, part 17, U.S. Const., 2-1-202.

Reservation of power to tax certain persons and property within Glacier National Park, 2-1-205.

Reservation of power to tax certain persons and property within land ceded to United States for Fort Peck Dam, 2-1-209.

Reservation of power to tax certain persons and property within land purchased by United States for national forest purposes, 2-1-210.

Capital gains or dividend income exempt — investment in small business investment company, Title 15, ch. 33, part 1.

Failure to pay income tax as evidence of nonresidency for university purposes, 20-25-504.

Income tax deduction for land sale to beginning farmers, 80-12-211.

Tax-exempt agricultural loan authority bonds, 80-12-305.

Tax credits for investment in Montana capital company, 90-8-202, 90-8-203.

Part 1
Rate and Return of Tax
(Renumbered, Repealed, and Terminated)

15-30-101. Renumbered 15-30-2101. Sec. 1, Ch. 147, L. 2009.

15-30-102. Renumbered 15-30-2102. Sec. 1, Ch. 147, L. 2009.

15-30-103. Renumbered 15-30-2103. Sec. 1, Ch. 147, L. 2009.

15-30-104. Repealed. Sec. 3, Ch. 422, L. 1981.
History: En. Sec. 2, Ch. 10, Ex. L. 1969; amd. Sec. 40, Ch. 9, 2nd Ex. L. 1971; R.C.M. 1947, 84-4902.1(part).

15-30-105. Renumbered 15-30-2104. Sec. 1, Ch. 147, L. 2009.

15-30-106. Renumbered 15-30-2105. Sec. 1, Ch. 147, L. 2009.

15-30-107. Renumbered 15-30-2118. Sec. 1, Ch. 147, L. 2009.

15-30-108. Terminated. Sec. 102, Ch. 11, Sp. L. June 1989.
History: En. Sec. 6, Ch. 666, L. 1987; En. Sec. 65, Ch. 11, Sp. L. June 1989.

15-30-109 reserved.

15-30-110. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. Sec. 7, Ch. 666, L. 1987.

15-30-111. Renumbered 15-30-2110. Sec. 1, Ch. 147, L. 2009.

15-30-112. Renumbered 15-30-2114. Sec. 1, Ch. 147, L. 2009.

15-30-113. Renumbered 15-30-2115. Sec. 1, Ch. 147, L. 2009.

15-30-114. Renumbered 15-30-2116. Sec. 1, Ch. 147, L. 2009.

15-30-115. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. 84-4910.2 by Sec. 2, Ch. 500, L. 1977; R.C.M. 1947, 84-4910.2; amd. Sec. 15, Ch. 472, L. 1997; amd. Sec. 1, Ch. 123, L. 2003.

15-30-116. Renumbered 15-30-2117. Sec. 1, Ch. 147, L. 2009.

15-30-117. Renumbered 15-30-2119. Sec. 1, Ch. 147, L. 2009.

15-30-118 through 15-30-120 reserved.

15-30-121. Renumbered 15-30-2131. Sec. 1, Ch. 147, L. 2009.

15-30-122. Renumbered 15-30-2132. Sec. 1, Ch. 147, L. 2009.

15-30-123. Renumbered 15-30-2133. Sec. 1, Ch. 147, L. 2009.

15-30-124. Renumbered 15-30-2302. Sec. 1, Ch. 147, L. 2009.

15-30-125. Renumbered 15-30-2319. Sec. 1, Ch. 147, L. 2009.

15-30-126. Renumbered 15-31-172. Sec. 1, Ch. 147, L. 2009.

15-30-127. Renumbered 15-30-2141. Sec. 1, Ch. 147, L. 2009.

15-30-128. Renumbered 15-30-2366. Sec. 1, Ch. 147, L. 2009.

15-30-129. Renumbered 15-30-2367. Sec. 1, Ch. 147, L. 2009.

15-30-130. Renumbered 15-30-2365. Sec. 1, Ch. 147, L. 2009.

15-30-131. Renumbered 15-30-2111. Sec. 1, Ch. 147, L. 2009.

15-30-132. Renumbered 15-30-2112. Sec. 1, Ch. 147, L. 2009.

15-30-133. Renumbered 15-30-1102. Sec. 16(3), Ch. 143, L. 2001.

15-30-134. Renumbered 15-30-2113. Sec. 1, Ch. 147, L. 2009.

15-30-135. Renumbered 15-30-2151. Sec. 1, Ch. 147, L. 2009.

15-30-136. Renumbered 15-30-2152. Sec. 1, Ch. 147, L. 2009.

15-30-137. Renumbered 15-30-2153. Sec. 1, Ch. 147, L. 2009.

15-30-138. Renumbered 15-30-2154. Sec. 1, Ch. 147, L. 2009.

15-30-139 reserved.

15-30-140. Renumbered 15-30-2336. Sec. 1, Ch. 147, L. 2009.

15-30-141. Renumbered 15-30-2601. Sec. 1, Ch. 147, L. 2009.

15-30-142. Renumbered 15-30-2602. Sec. 1, Ch. 147, L. 2009.

15-30-143. Renumbered 15-30-2603. Sec. 1, Ch. 147, L. 2009.

15-30-144. Renumbered 15-30-2604. Sec. 1, Ch. 147, L. 2009.

15-30-145. Renumbered 15-30-2605. Sec. 1, Ch. 147, L. 2009.

15-30-146. Renumbered 15-30-2606. Sec. 1, Ch. 147, L. 2009.

15-30-147. Renumbered 15-30-2607. Sec. 1, Ch. 147, L. 2009.

15-30-148. Renumbered 15-30-2608. Sec. 1, Ch. 147, L. 2009.

15-30-149. Renumbered 15-30-2609. Sec. 1, Ch. 147, L. 2009.

15-30-150. Renumbered 15-30-2387. Sec. 1, Ch. 147, L. 2009.

15-30-151. Renumbered 15-30-2388. Sec. 1, Ch. 147, L. 2009.

15-30-152. Renumbered 15-30-2389. Sec. 1, Ch. 147, L. 2009.

15-30-153. Renumbered 15-30-2386. Sec. 1, Ch. 147, L. 2009.

15-30-154. Renumbered 15-30-2142. Sec. 1, Ch. 147, L. 2009.

15-30-155. Renumbered 15-30-2390. Sec. 1, Ch. 147, L. 2009.

15-30-156. Renumbered 15-30-2143. Sec. 1, Ch. 147, L. 2009.

15-30-157. Renumbered 15-30-2144. Sec. 1, Ch. 147, L. 2009.

15-30-158. Terminated. Sec. 12, Ch. 808, L. 1991.
History: En. Sec. 7, Ch. 808, L. 1991; amd. Sec. 6, Ch. 581, L. 1993.

15-30-159. Terminated. Sec. 12, Ch. 808, L. 1991.
History: En. Sec. 8, Ch. 808, L. 1991.

15-30-160. Terminated. Sec. 12, Ch. 808, L. 1991.
History: En. Sec. 9, Ch. 808, L. 1991.

15-30-161. Repealed. Sec. 4, Ch. 159, L. 2003.
History: En. 84-4960 by Sec. 1, Ch. 412, L. 1977; R.C.M. 1947, 84-4960; amd. Sec. 1, Ch. 111, L. 1979; amd. Sec. 1, Ch. 520, L. 1981; amd. Sec. 5, Ch. 807, L. 1991.

15-30-162. Repealed. Sec. 4, Ch. 159, L. 2003.
History: En. 84-4961 by Sec. 2, Ch. 412, L. 1977; R.C.M. 1947, 84-4961(part); amd. Sec. 2, Ch. 111, L. 1979; amd. Sec. 2, Ch. 422, L. 1981; amd. Sec. 2, Ch. 520, L. 1981; amd. Sec. 1, Ch. 704, L. 1983; amd. Sec. 69, Ch. 42, L. 1997.

15-30-163. Renumbered 15-30-2326. Sec. 1, Ch. 147, L. 2009.

15-30-164. Renumbered 15-30-2320. Sec. 1, Ch. 147, L. 2009.

15-30-165. Renumbered 15-30-2327. Sec. 1, Ch. 147, L. 2009.

15-30-166. Renumbered 15-30-2328. Sec. 1, Ch. 147, L. 2009.

15-30-167. Renumbered 15-30-2329. Sec. 1, Ch. 147, L. 2009.

15-30-168. Renumbered 15-30-2358. Sec. 1, Ch. 147, L. 2009.

15-30-169. Repealed. Sec. 30, Ch. 486, L. 2009.
History: En. Sec. 1, Ch. 535, L. 2005.

15-30-170. Void. I.R. No. 112, Nov. 8, 1994.
History: En. Sec. 8, Ch. 634, L. 1993.

15-30-171. Renumbered 15-30-2337. Sec. 1, Ch. 147, L. 2009.

15-30-172. Renumbered 15-30-2338. Sec. 1, Ch. 147, L. 2009.

15-30-173. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. Sec. 3, Ch. 584, L. 1981.

15-30-174. Renumbered 15-30-2339. Sec. 1, Ch. 147, L. 2009.

15-30-175. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. Sec. 5, Ch. 584, L. 1981.

15-30-176. Renumbered 15-30-2340. Sec. 1, Ch. 147, L. 2009.

15-30-177. Renumbered 15-30-2341. Sec. 1, Ch. 147, L. 2009.

15-30-178. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. Sec. 8, Ch. 584, L. 1981; amd. Sec. 5, Ch. 543, L. 1997.

15-30-179. Repealed. Sec. 9, Ch. 147, L. 2009.
History: En. Sec. 9, Ch. 584, L. 1981.

15-30-180. Renumbered 15-30-2342. Sec. 1, Ch. 147, L. 2009.

15-30-181. Terminated. Sec. 7, Ch. 411, L. 2001.
History: En. Sec. 1, Ch. 411, L. 2001.

15-30-182. Renumbered 15-30-2356. Sec. 1, Ch. 147, L. 2009.

15-30-183. Renumbered 15-30-2301. Sec. 1, Ch. 147, L. 2009.

15-30-184. Repealed. Sec. 3, Ch. 309, L. 2009.
History: En. Sec. 16, Ch. 537, L. 2005.

15-30-185. Renumbered 15-30-2368. Sec. 1, Ch. 147, L. 2009.

15-30-186. Renumbered 15-30-2373. Sec. 1, Ch. 147, L. 2009.

15-30-187. Terminated. Sec. 1, Ch. 338, L. 2005.
History: En. Sec. 2, Ch. 590, L. 2003.

15-30-188. Renumbered 15-30-2369. Sec. 1, Ch. 147, L. 2009.

15-30-189. Renumbered 15-30-2370. Sec. 1, Ch. 147, L. 2009.

15-30-190. Renumbered 15-30-2371. Sec. 1, Ch. 147, L. 2009.

15-30-191. Renumbered 15-30-2372. Sec. 1, Ch. 147, L. 2009.

15-30-192. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 1, Ch. 501, L. 1999.

15-30-193. Renumbered 15-30-2392. Sec. 1, Ch. 147, L. 2009.

15-30-194. Renumbered 15-30-2364. Sec. 1, Ch. 147, L. 2009.

15-30-195. Terminated. Sec. 7, Ch. 29, L. 1995.
History: En. Secs. 1, 2, 4, Ch. 29, L. 1995; amd. Sec. 7, Ch. 389, L. 1999.

15-30-196. Renumbered 15-30-2381. Sec. 1, Ch. 147, L. 2009.

15-30-197 and 15-30-198 reserved.

15-30-199. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.
History: En. Sec. 2, Ch. 15, Sp. L. July 1992.

Part 2
Withholding and Estimated Tax (Renumbered and Repealed)

15-30-201. Renumbered 15-30-2501. Sec. 1, Ch. 147, L. 2009.

15-30-202. Renumbered 15-30-2502. Sec. 1, Ch. 147, L. 2009.

15-30-203. Renumbered 15-30-2503. Sec. 1, Ch. 147, L. 2009.

15-30-204. Renumbered 15-30-2504. Sec. 1, Ch. 147, L. 2009.

15-30-205. Renumbered 15-30-2505. Sec. 1, Ch. 147, L. 2009.

15-30-206. Renumbered 15-30-2506. Sec. 1, Ch. 147, L. 2009.

15-30-207. Renumbered 15-30-2507. Sec. 1, Ch. 147, L. 2009.

15-30-208. Renumbered 15-30-2508. Sec. 1, Ch. 147, L. 2009.

15-30-209. Renumbered 15-30-2509. Sec. 1, Ch. 147, L. 2009.

15-30-210. Renumbered 15-30-2510. Sec. 1, Ch. 147, L. 2009.

15-30-211. Renumbered 15-1-208 and 16-11-110. Sec. 2, Ch. 6, L. 1997.

15-30-212 through 15-30-214 reserved.

15-30-215. Renumbered 15-30-2511. Sec. 1, Ch. 147, L. 2009.

15-30-216 through 15-30-220 reserved.

15-30-221. Repealed. Sec. 3, Ch. 570, L. 1981.
History: (1) thru (3)En. Sec. 2, Ch. 208, L. 1959; amd. Sec. 1, Ch. 154, L. 1961; amd. Sec. 159, Ch. 516, L. 1973; Sec. 84-4903.2, R.C.M. 1947; (4)En. Sec. 3, Ch. 208, L. 1959; Sec. 84-4903.3, R.C.M. 1947; R.C.M. 1947, 84-4903.2, 84-4903.3; amd. Sec. 21, Ch. 581, L. 1979.

15-30-222. Repealed. Sec. 3, Ch. 570, L. 1981.
History: (1)En. Sec. 4, Ch. 208, L. 1959; Sec. 84-4903.4, R.C.M. 1947; (2), (3)En. Sec. 5, Ch. 208, L. 1959; amd. Sec. 2, Ch. 154, L. 1961; amd. Sec. 3, Ch. 10, Ex. L. 1969; amd. Sec. 160, Ch. 516, L. 1973; Sec. 84-4903.5, R.C.M. 1947; R.C.M. 1947, 84-4903.4, 84-4903.5.

15-30-223. Repealed. Sec. 3, Ch. 570, L. 1981.
History: En. Sec. 6, Ch. 208, L. 1959; amd. Sec. 161, Ch. 516, L. 1973; R.C.M. 1947, 84-4903.6.

15-30-224. Repealed. Sec. 3, Ch. 570, L. 1981.
History: En. Sec. 7, Ch. 208, L. 1959; amd. Sec. 3, Ch. 154, L. 1961; amd. Sec. 162, Ch. 516, L. 1973; R.C.M. 1947, 84-4903.7.

15-30-225. Repealed. Sec. 3, Ch. 570, L. 1981.
History: En. Sec. 8, Ch. 208, L. 1959; amd. Sec. 163, Ch. 516, L. 1973; amd. Sec. 4, Ch. 34, L. 1977; R.C.M. 1947, 84-4903.8.

15-30-226. Repealed. Sec. 3, Ch. 570, L. 1981.
History: En. Sec. 9, Ch. 208, L. 1959; amd. Sec. 164, Ch. 516, L. 1973; R.C.M. 1947, 84-4903.9; amd. Sec. 11, Ch. 439, L. 1981.

15-30-227. Repealed. Sec. 3, Ch. 570, L. 1981.
History: En. Sec. 10, Ch. 208, L. 1959; amd. Sec. 165, Ch. 516, L. 1973; R.C.M. 1947, 84-4903.10.

15-30-228. Repealed. Sec. 169, Ch. 27, Sp. L. November 1993.
History: En. Sec. 11, Ch. 208, L. 1959; amd. Sec. 100, Ch. 405, L. 1973; R.C.M. 1947, 84-4903.11.

15-30-229 through 15-30-240 reserved.

15-30-241. Renumbered 15-30-2512. Sec. 1, Ch. 147, L. 2009.

15-30-242. Repealed. Secs. 2, 4, Ch. 17, Sp. L. January 1992.
History: En. 84-4940 by Sec. 13, Ch. 260, L. 1955; amd. Sec. 184, Ch. 516, L. 1973; amd. Sec. 2, Ch. 374, L. 1977; R.C.M. 1947, 84-4940(part).

15-30-243 through 15-30-245 reserved.

15-30-246. Renumbered 15-30-2521. Sec. 1, Ch. 147, L. 2009.

15-30-247. Renumbered 15-30-2522. Sec. 1, Ch. 147, L. 2009.

15-30-248. Renumbered 15-30-2523. Sec. 1, Ch. 147, L. 2009.

15-30-249. Repealed. Sec. 10, Ch. 67, L. 2005.
History: En. Sec. 1, Ch. 491, L. 1997.

15-30-250. Repealed. Sec. 10, Ch. 67, L. 2005.
History: En. Sec. 2, Ch. 491, L. 1997.

15-30-251. Repealed. Sec. 10, Ch. 67, L. 2005.
History: En. Sec. 3, Ch. 491, L. 1997.

15-30-252 through 15-30-254 reserved.

15-30-255. Renumbered 15-30-2531. Sec. 1, Ch. 147, L. 2009.

15-30-256. Repealed. Sec. 10, Ch. 67, L. 2005.
History: En. Sec. 5, Ch. 491, L. 1997; amd. Sec. 2, Ch. 243, L. 2003.

15-30-257. Repealed. Sec. 10, Ch. 67, L. 2005.
History: En. Sec. 7, Ch. 491, L. 1997.

15-30-258 through 15-30-260 reserved.

15-30-261. Renumbered 15-30-2536. Sec. 1, Ch. 147, L. 2009.

15-30-262. Renumbered 15-30-2537. Sec. 1, Ch. 147, L. 2009.

15-30-263. Renumbered 15-30-2538. Sec. 1, Ch. 147, L. 2009.

15-30-264. Renumbered 15-30-2539. Sec. 1, Ch. 147, L. 2009.

15-30-265. Renumbered 15-30-2540. Sec. 1, Ch. 147, L. 2009.

15-30-266. Renumbered 15-30-2541. Sec. 1, Ch. 147, L. 2009.

15-30-267. Renumbered 15-30-2542. Sec. 1, Ch. 147, L. 2009.

15-30-268. Renumbered 15-30-2543. Sec. 1, Ch. 147, L. 2009.

15-30-269. Renumbered 15-30-2544. Sec. 1, Ch. 147, L. 2009.

15-30-270. Renumbered 15-30-2545. Sec. 1, Ch. 147, L. 2009.

15-30-271. Renumbered 15-30-2546. Sec. 1, Ch. 147, L. 2009.

15-30-272. Renumbered 15-30-2547. Sec. 1, Ch. 147, L. 2009.

Part 3
Administration and Collection
(Renumbered and Repealed)

15-30-301. Renumbered 15-30-2616. Sec. 1, Ch. 147, L. 2009.

15-30-302. Renumbered 15-30-2617. Sec. 1, Ch. 147, L. 2009.

15-30-303. Renumbered 15-30-2618. Sec. 1, Ch. 147, L. 2009.

15-30-304. Renumbered 15-30-2619. Sec. 1, Ch. 147, L. 2009.

15-30-305. Renumbered 15-30-2620. Sec. 1, Ch. 147, L. 2009.

15-30-306. Renumbered 15-30-2621. Sec. 1, Ch. 147, L. 2009.

15-30-307. Renumbered 15-30-2622. Sec. 1, Ch. 147, L. 2009.

15-30-308 and 15-30-309 reserved.

15-30-310. Renumbered 15-30-2629. Sec. 1, Ch. 147, L. 2009.

15-30-311. Renumbered 15-30-2630. Sec. 1, Ch. 147, L. 2009.

15-30-312. Renumbered 15-30-2631. Sec. 1, Ch. 147, L. 2009.

15-30-313. Renumbered 15-30-2632. Sec. 1, Ch. 147, L. 2009.

15-30-314. Renumbered 15-30-2633. Sec. 1, Ch. 147, L. 2009.

15-30-315. Repealed. Sec. 54, Ch. 439, L. 1981.

History: En. Sec. 1, Ch. 130, L. 1965; amd. Sec. 193, Ch. 516, L. 1973; R.C.M. 1947, 84-4958.

15-30-316. Renumbered 15-30-2634. Sec. 1, Ch. 147, L. 2009.

15-30-317 through 15-30-320 reserved.

15-30-321. Renumbered 15-30-2641. Sec. 1, Ch. 147, L. 2009.

15-30-322. Repealed. Sec. 5, Ch. 520, L. 1993.

History: En. Sec. 27, Ch. 181, L. 1933; re-en. Sec. 2295.27, R.C.M. 1935; amd. Sec. 178, Ch. 516, L. 1973; R.C.M. 1947, 84-4929.

15-30-323. Renumbered 15-30-2642. Sec. 1, Ch. 147, L. 2009.

15-30-324. Renumbered 15-30-2643. Sec. 1, Ch. 147, L. 2009.

15-30-325 through 15-30-330 reserved.

15-30-331. Renumbered 15-30-2651. Sec. 1, Ch. 147, L. 2009.

Parts 4 and 5 reserved

Part 6
Particular Income Tax Applications (Renumbered)

15-30-601. Renumbered 15-30-3001. Sec. 1, Ch. 147, L. 2009.

15-30-602. Renumbered 15-30-3002. Sec. 1, Ch. 147, L. 2009.

15-30-603. Renumbered 15-30-3003. Sec. 1, Ch. 147, L. 2009.

15-30-604. Renumbered 15-30-3004. Sec. 1, Ch. 147, L. 2009.

15-30-605. Renumbered 15-30-3005. Sec. 1, Ch. 147, L. 2009.

Parts 7 through 10 reserved

Part 11
Pass-Through Entities (Renumbered)

15-30-1101. Renumbered 15-30-3301. Sec. 1, Ch. 147, L. 2009.

15-30-1102. Renumbered 15-30-3302. Sec. 1, Ch. 147, L. 2009.

15-30-1103 through 15-30-1110 reserved.

15-30-1111. Renumbered 15-30-3311. Sec. 1, Ch. 147, L. 2009.

15-30-1112. Renumbered 15-30-3312. Sec. 1, Ch. 147, L. 2009.

15-30-1113. Renumbered 15-30-3313. Sec. 1, Ch. 147, L. 2009.

15-30-1114. Renumbered 15-30-3314. Sec. 1, Ch. 147, L. 2009.

15-30-1115 through 15-30-1120 reserved.

15-30-1121. Renumbered 15-30-3321. Sec. 1, Ch. 147, L. 2009.

Parts 12 through 20 reserved

Part 21
Rate and General Provisions

15-30-2101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

(2) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

(a) that is treated as an association for federal income tax purposes;

(b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and

(c) that is not a disregarded entity.

(3) "Department" means the department of revenue.

(4) "Disregarded entity" means a business entity:

(a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

(5) "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(6) "Federal adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62.

(7) "Federal taxable income", when referring to an individual, means taxable income as defined and described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or estate, means taxable income as defined and described in sections 641 through 692 of the Internal Revenue Code, 26 U.S.C. 641 through 692.

(8) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(9) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

(10) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

(11) "Head of household" means a head of household as defined and described in section 2(b) of the Internal Revenue Code, 26 U.S.C. 2(b).

(12) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2023.

(13) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(15) "Joint return" means one return made jointly by a married individual with that individual's spouse.

(16) "Knowingly" is as defined in 45-2-101.

(17) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

(a) a resident taxpayer on a lottery ticket; or

(b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(20) "Married individual" means a married individual as defined and described in section 7703 of the Internal Revenue Code, 26 U.S.C. 7703.

(21) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and

(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection (21)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(22) "Montana taxable income" means federal taxable income as determined for federal income tax purposes and adjusted as provided in 15-30-2120.

(23) "Nonresident" means a natural person who is not a resident.

(24) "Paid" means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting used to compute federal taxable income.

(25) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(28) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(29) "Purposely" is as defined in 45-2-101.

(30) "Received" means received or accrued, and the term "received or accrued" must be construed according to the method of accounting used to compute federal taxable income.

(31) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code, 26 U.S.C. 1362, is in effect.

(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(34) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the Internal Revenue Code, 26 U.S.C. 2(a).

(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(36) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation.

History: **En. Sec. 1, Ch. 181, L. 1933; re-en. Sec. 2295.1, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1947; amd. Sec. 1, Ch. 253, L. 1959; amd. Sec; 1, Ch. 62, L. 1967; amd. Sec. 157, Ch. 516, L. 1973; R.C.M. 1947, 84-4901; amd. Sec. 1, Ch. 476, L. 1979; amd. Sec. 1, Ch. 648, L. 1979; amd. Sec; 1, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 548, L. 1981; amd. Sec. 1, Ch. 289, L. 1989; amd. Sec. 1, Ch. 823, L. 1991; amd. Sec. 1, Ch. 14, Sp. L. July 1992; amd. Sec. 26, Ch. 10, L. 1993; amd. Sec. 1, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 65, Ch. 42, L. 1997; amd. Sec. 1, Ch. 31, L. 1999; amd. Sec. 2, Ch. 143, L. 2001; amd. Sec. 1, Ch. 225, L. 2003; amd. Sec. 42, Ch. 544, L. 2003; Sec. 15-30-101, MCA 2007; redes. 15-30-2101 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 401, L. 2009; amd. Sec. 1, Ch. 418, L. 2015; amd. Sec. 7, Ch. 503, L. 2021.**

15-30-2102. Construction of income. For the purpose of raising revenue, the income required to be shown on returns under this chapter and taken as the basis for determining the tax may not be classified or held or construed to be property. All income except what has been expressly exempted under the provisions of the Internal Revenue Code or this chapter and income not permitted to be taxed under the constitution of this state or the constitution or laws of the United States must be included and considered in determining the income of taxpayers subject to tax within the provisions of this chapter.

History: **En. Sec. 31, Ch. 181, L. 1933; re-en. Sec. 2295.31, R.C.M. 1935; R.C.M. 1947, 84-4932; Sec. 15-30-102, MCA 2007; redes. 15-30-2102 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 8, Ch. 503, L. 2021.**

Cross-References

Tax-deferred annuity program for teachers, 19-20-208.

Deferred income of public employee not subject to taxation until distribution, 19-50-103.

Payments received under Title 70, ch. 31, for relocation caused by federally assisted programs not income, 70-31-106.

15-30-2103. *(Temporary)* **Rate of tax — net long-term capital gains — definitions.** (1) Except as provided in subsection (2), there must be levied, collected, and paid for each tax year on the Montana taxable income of each taxpayer subject to this chapter a tax on the brackets of taxable income as follows:

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first $95,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $95,000 or any part of that income, 5.65%;

(b) for every head of household:

(i) on the first $71,250 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $71,250 or any part of that income, 5.65%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first $47,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $47,500 or any part of that income, 5.65%;

(d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:

(i) on the first $47,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $47,500 or any part of that income, 5.65%.

(2) Except as provided in 15-30-3704, that portion of a taxpayer's Montana taxable income that consists of net long-term capital gains after accounting for amounts included in taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-term capital gains as follows:

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first $95,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on net long-term capital gains that exceed $95,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $95,000 or greater, all of the net long-term capital gains are taxed at 4.1%;

(b) for every head of household:

(i) on the first $71,250 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $71,250 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $71,250 or greater, all of the net long-term capital gains are taxed at 4.1%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first $47,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $47,500 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $47,500 or greater, all of the net long-term capital gains are taxed at 4.1%;

(d) for every married individual who does not make a joint return and for every estate or trust that is not exempt from taxation under the Internal Revenue Code:

(i) on the first $47,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $47,500 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $47,500 or greater, all of the net long-term capital gains are taxed at 4.1%.

(3) For the purposes of this section, the following definitions apply:

(a) "Net long-term capital gains" means net long-term capital gains as that term is defined in section 1222 of the Internal Revenue Code, 26 U.S.C. 1222.

(b) "Nonqualified taxable income" means Montana taxable income that is not considered net long-term capital gains. *(Terminates December 31, 2026—sec. 7, Ch. 227, L. 2025.)*

15-30-2103. *(Effective January 1, 2027)* **Rate of tax — net long-term capital gains — definitions.** (1) Except as provided in subsections (2) and (3), there must be levied, collected, and paid for each tax year on the Montana taxable income of each taxpayer subject to this chapter a tax on the brackets of taxable income as follows:

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first $130,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $130,000 or any part of that income, 5.4%;

(b) for every head of household:

(i) on the first $97,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $97,500 or any part of that income, 5.4%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first $65,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $65,000 or any part of that income, 5.4%;

(d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:

(i) on the first $65,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of $65,000 or any part of that income, 5.4%.

(2) Except as provided in 15-30-3704and subsection (3) of this section, that portion of a taxpayer's Montana taxable income that consists of net long-term capital gains after accounting for amounts included in taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-term capital gains as follows:

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first $130,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on net long-term capital gains that exceed $130,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $130,000 or greater, all of the net long-term capital gains are taxed at 4.1%;

(b) for every head of household:

(i) on the first $97,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $97,500 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $97,500 or greater, all of the net long-term capital gains are taxed at 4.1%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first $65,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $65,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $65,000 or greater, all of the net long-term capital gains are taxed at 4.1%;

(d) for every married individual who does not make a joint return and for every estate or trust that is not exempt from taxation under the Internal Revenue Code:

(i) on the first $65,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $65,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $65,000 or greater, all of the net long-term capital gains are taxed at 4.1%.

(3) By November 1 of each year, the department shall multiply the bracket amounts contained in subsections (1) and (2) by the modified inflation factor for the following tax year and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that following tax year and must be used as the basis for imposition of the tax in subsections (1) and (2).

(4) For the purposes of this section, the following definitions apply:

(a) "Modified inflation factor" has the same meaning as "inflation factor" as defined in 15-30-2101, except that the consumer price index for June 2026 is substituted for the consumer price index for June 2023.

(b) "Net long-term capital gains" means net long-term capital gains as that term is defined in section 1222 of the Internal Revenue Code, 26 U.S.C. 1222.

(c) "Nonqualified taxable income" means Montana taxable income that is not considered net long-term capital gains.

History: En. Sec. 2, Ch. 181, L. 1933; amd. Sec. 1, Ch. 40, Ex. L. 1933; re-en. Sec. 2295.2, R.C.M. 1935; amd. Sec. 1, Ch. 228, L. 1957; amd. Sec; 1, Ch. 265, L. 1959; amd. Sec. 1, Ch. 281, L. 1965; amd. Sec. 1, Ch. 5, Ex. L. 1967; amd. Sec. 1, Ch. 10, Ex. L. 1969; R.C.M. 1947, 84-4902; amd; Sec. 2, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 2, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 43, Ch. 544, L. 2003; Sec. 15-30-103, MCA 2007; redes. 15-30-2103 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 418, L. 2015; amd. Sec. 5, Ch. 458, L. 2021; amd. Secs. 1, 2, and 3, Ch. 488, L. 2021; amd. Sec. 9, Ch. 503, L. 2021; amd. Sec. 1, Ch. 46, L. 2023; amd. Sec. 1, Ch. 50, L. 2023; amd. Sec. 1, Ch. 227, L. 2025; amd. Sec. 2, Ch. 227, L. 2025.

Compiler's Comments

2025 Amendments: (Temporary version) See 2025 Session Law for amendment made by sec. 1, Ch. 227, L. 2025. Amendment effective January 1, 2026, and terminates December 31, 2026.

(Version effective January 1, 2027) See 2025 Session Law for amendment made by sec. 2, Ch. 227, L. 2025. Amendment effective January 1, 2027.

Transition: Section 4, Ch. 227, L. 2025, provided: "The modified inflation factor provided for in 15-30-2103(3) [version effective January 1, 2027] does not apply until tax year 2028."

Applicability: Section 6, Ch. 227, L. 2025, provided: "(1) [Sections 1 and 3] [temporary versions of 15-30-2103 and 15-30-2318] apply to the income tax year beginning January 1, 2026."

(2) [Section 2] [15-30-2103, version effective January 1, 2027] applies to income tax years beginning after December 31, 2026."

Contingent Termination: Section 10, Ch. 488, L. 2021, provided: "(1) The legislature intends to provide the tax relief provided by [this act] while also preventing the loss of federal funds that are available to the state as part of the recently enacted American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through (5) are limited to the duration of time established by each subsection and are necessary based on the lack of information available to the legislature from the federal government at the time of enactment of [this act].

(2) [Section 1] [amendment to 15-30-2103(1)(g)] terminates on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made in calendar year 2021.

(3) [Section 2] [amendment to 15-30-2103(1)(g)] terminates on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December 31, 2022.

(4) [Section 3] [amendment to 15-30-2103(1)(g)] terminates on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December 31, 2023.

(5) [Section 4] [amendment to 15-30-2103(1)(g), rendered void by sec. 8, Ch. 488, L. 2021, a coordination section] terminates on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December 31, 2024.

(6) (a) The budget director shall continually evaluate whether implementation of a section of [this act] will:

(i) result in a reduction of funds from the American Rescue Plan Act; or

(ii) require the state to repay or refund to the federal government pursuant to the American Rescue Plan Act.

(b) The budget director shall consider guidance from:

(i) the federal government about the American Rescue Plan Act;

(ii) court decisions about the American Rescue Plan Act;

(iii) amendments to the American Rescue Plan Act;

(iv) any information provided by the attorney general; and

(v) other relevant information about the American Rescue Plan Act.

(c) If the budget director determines that the implementation of a section of this act may satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b), the budget director shall notify the legislative finance committee of the preliminary determination. Within 20 days of notification, the legislative finance committee shall provide the budget director with any recommendations concerning the preliminary determination. The budget director's notification of the preliminary determination may occur after January 1 but no later than December 10 of each of the calendar years 2021, 2022, 2023, and 2024. The budget director shall consider any recommendations of the legislative finance committee.

(7) If the budget director determines that the implementation of a section of this act would more likely than not satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b) and the recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide certification in writing to the legislative finance committee and the code commissioner of the occurrence of the relevant contingency provided for in subsections (2) through (5)." Terminates December 31, 2023.

Cross-References

Credit for foreign taxes, 15-30-2302.

Credit for public contractor's license fee, 15-50-207.

Tax credits for investment in Montana capital company, 90-8-202, 90-8-203.

15-30-2104. Tax on nonresident. (1) (a) Except as provided in 15-30-2106, a tax is imposed on each nonresident individual, estate, or trust equal to the tax computed under 15-30-2103 as if the nonresident individual, estate, or trust were a resident during the entire tax year, multiplied by the ratio of Montana source income to total income from all sources.

(b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or credit to be counted more than once in determining the amount of Montana source income, and the department may adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular items of income, gain, loss, deduction, expense, or credit.

(2) Pursuant to the provisions of Article III, section 2, of 15-1-601, each nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. The tax is in lieu of the tax imposed under 15-30-2103 and subsection (1)(a) of this section. The gross volume of sales made in Montana during the tax year must be determined according to the provisions of Article IV, sections 11 and 12, of 15-1-601.

History: En. Sec. 3, Ch. 181, L. 1933; re-en. Sec. 2295.3, R.C.M. 1935; amd. Sec. 2, Ch. 253, L. 1959; amd. Sec. 1, Ch. 199, L. 1963; amd. Sec; 1, Ch. 15, L. 1971; R.C.M. 1947, 84-4903; amd. Sec. 1, Ch. 422, L. 1981; amd. Sec. 2, Ch. 14, Sp. L. July 1992; amd. Sec. 3, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 2, Ch. 31, L. 1999; amd. Sec. 7, Ch. 143, L. 2001; Sec. 15-30-105, MCA 2007; redes. 15-30-2104 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 10, Ch. 503, L. 2021; amd. Sec. 2, Ch. 51, L. 2023; amd. Sec. 3, Ch. 563, L. 2023.

Cross-References

Multistate Tax Compact, Title 15, ch. 1, part 6.

15-30-2105. Tax on lump-sum distributions. (1) A separate tax is imposed on that portion of a lump-sum distribution for which a deduction was allowed by section 62(a)(8) of the Internal Revenue Code (now repealed).

(2) The tax is 10% of the amount of tax determined under section 402(d) of the Internal Revenue Code that was in effect and applicable to a distribution before amendment by section 1401 of Public Law 104-188.

(3) All means available for the administration and enforcement of income taxes must be applied to the tax on lump-sum distributions.

History: En. Sec. 1, Ch. 380, L. 1983; amd. Sec. 23, Ch. 114, L. 2003; amd. Sec. 1, Ch. 159, L. 2003; Sec. 15-30-106, MCA 2007; redes. 15-30-2105 by Sec. 1, Ch. 147, L. 2009.

15-30-2106. Nonresident compensation — exclusion. (1) Except as provided in subsection (2), compensation subject to withholding pursuant to Title 15, chapter 30, part 25, without regard to 15-30-2513, that is received by a nonresident for employment duties performed in this state, is excluded from Montana source income if:

(a) the nonresident performed employment duties in more than one state during the year; and

(b) the nonresident is present in this state to perform employment duties for not more than 30 days during the tax year in which the compensation is received, where presence in this state for any part of a day constitutes presence for that day unless the presence is purely for purposes of transit through the state.

(2) This section does not apply to compensation received by a person:

(a) who is a professional athlete or member of a professional athletic team;

(b) who is a professional entertainer who performs services in the professional performing arts;

(c) of prominence who performs services for compensation on a per-event basis;

(d) who receives lottery winnings on a lottery ticket purchased in Montana;

(e) who performs construction services to improve real property, predominantly on construction sites, as a laborer;

(f) who is a key employee for the year immediately preceding the current tax year; or

(g) who is a qualified production employee.

(3) This section does not prevent the operation, renewal, or initiation of any agreement with the taxing authorities of states contiguous to this state pursuant to 15-30-2621.

(4) This section creates an exclusion from nonresident compensation under certain de minimis circumstances and has no application to this state's jurisdiction to impose a tax under this chapter or any other tax imposed in this state on a taxpayer;

(5) For the purpose of this section, the following definitions apply:

(a) "Key employee" means an individual who, for the year immediately preceding the current tax year, had annual compensation from the employer of greater than $500,000.

(b) "Qualified production employee" means a person who performs production services of any nature:

(i) directly in connection with a qualified production activity, as that term is defined under 15-31-1003; and

(ii) for compensation, provided the compensation paid to the person qualifies as compensation under 15-31-1003.

(c) "State of residence" means the 50 states of the United States, the District of Columbia, and any territory or possession of the United States.

History: En. Sec. 1, Ch. 563, L. 2023.

15-30-2107 through 15-30-2109 reserved.

15-30-2110. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 5, Ch. 181, L. 1933; re-en. Sec. 2295.5, R.C.M. 1935; amd. Sec. 1, Ch. 167, L. 1947; amd. Sec. 1, Ch. 260, L. 1955; amd. Sec; 1, Ch. 58, L. 1963; amd. Sec. 1, Ch. 129, L. 1965; amd. Sec. 1, Ch. 236, L. 1971; amd. Sec. 1, Ch. 345, L. 1971; amd. Sec. 1, Ch. 158, L. 1975; amd. Sec. 1, Ch. 411, L. 1975; amd. Sec. 3, Ch. 489, L. 1977; R.C.M. 1947, 84-4905; amd. Sec. 1, Ch. 483, L. 1981; amd. Sec. 2, Ch. 537, L. 1981; amd. Sec. 1, Ch. 546, L. 1981; amd. Sec. 1, Ch. 550, L. 1981; amd. Sec. 1, Ch. 13, L. 1983; amd. Sec. 1, Ch. 634, L. 1983; amd. Sec. 1, Ch. 198, L. 1985; amd. Sec. 1, Ch. 364, L. 1985; amd. Sec. 1, Ch. 464, L. 1985; amd. Sec. 1, Ch. 682, L. 1985; amd. Sec. 48, Ch. 370, L. 1987; amd. Sec. 10, Ch. 494, L. 1987; amd. Sec. 1, Ch. 657, L. 1987; amd. Sec. 1, Ch. 532, L. 1989; amd. Sec. 3, Ch. 617, L. 1989; amd. Sec. 1, Ch. 807, L. 1991; amd. Sec. 2, Ch. 823, L. 1991; amd. Sec. 4, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 1, Ch. 278, L. 1995; amd. Sec. 8, Ch. 295, L. 1995; amd. Sec. 1, Ch. 399, L. 1995; amd. Sec. 3, Ch. 479, L. 1995; amd. Sec. 66, Ch. 42, L. 1997; amd. Sec. 3, Ch. 123, L. 1997; amd. Sec. 12, Ch. 540, L. 1997; amd. Sec. 8, Ch. 544, L. 1997; amd. Sec. 1, Ch. 327, L. 1999; amd. Sec. 1, Ch. 447, L. 1999; amd. Sec. 6, Ch. 262, L. 2001; amd. Sec. 12, Ch. 272, L. 2001; amd. Sec. 4, Ch. 468, L. 2001; amd. Sec. 24, Ch. 114, L. 2003; amd. Sec. 1, Ch. 519, L. 2003; amd. Sec. 1, Ch. 545, L. 2003; amd. Sec. 17, Ch. 130, L. 2005; amd. Sec. 13, Ch. 595, L. 2005; amd. Sec. 1, Ch. 509, L. 2007; amd. Sec. 2, Ch. 147, L. 2009; Sec. 15-30-111, MCA 2007; redes. 15-30-2110 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 382, L. 2009; amd. Sec. 2, Ch. 389, L. 2009; amd. Sec. 5, Ch. 268, L. 2013; amd. Sec. 2, Ch. 349, L. 2013; amd. Sec. 1, Ch. 398, L. 2013; amd. Sec. 1, Ch. 63, L. 2015; amd. Sec. 3, Ch. 308, L. 2015; amd. Sec. 3, Ch. 418, L. 2015; amd. Sec. 16, Ch. 436, L. 2015; amd. Sec. 23, Ch. 457, L. 2015; amd. Sec. 2, Ch. 151, L. 2017; amd. Sec. 1, Ch. 152, L. 2017; amd. Sec. 4, Ch. 374, L. 2017; amd. Sec. 1, Ch. 382, L. 2017; amd. Sec. 1, Ch. 30, L. 2019; amd. Sec. 1, Ch. 347, L. 2019; amd. Sec. 1, Ch. 349, L. 2021; amd. Sec. 3, Ch. 44, L. 2023; amd. Sec. 4, Ch. 47, L. 2023; amd. Sec. 8, Ch. 669, L. 2023; amd. Sec. 5, Ch. 702, L. 2023.

15-30-2111. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 7, Ch. 181, L. 1933; re-en. Sec. 2295.7, R.C.M. 1935; amd. Sec. 1, Ch. 28, L. 1937; amd. Sec. 1, Ch. 7, L. 1939; amd. Sec. 1, Ch. 63, L. 1949; amd. Sec. 1, Ch. 17, L. 1951; amd. Sec. 1, Ch. 111, L; 1953; amd. Sec. 3, Ch. 260, L. 1955; amd. Sec. 1, Ch. 237, L. 1963; amd; Sec. 1, Ch. 270, L. 1965; amd. Sec. 168, Ch. 516, L. 1973; R.C.M. 1947, 84-4907; amd. Sec. 1, Ch. 623, L. 1979; amd. Sec. 4, Ch. 480, L. 1981; amd. Sec. 1, Ch. 378, L. 1983; amd. Sec. 1, Ch. 199, L. 1985; amd. Sec. 5, Ch. 14, Sp. L. July 1992; amd. Sec. 10, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); Sec. 15-30-131, MCA 2007; redes. 15-30-2111 by Sec. 1, Ch. 147, L. 2009.

15-30-2112. Change from nonresident to resident or vice versa. If a taxpayer changes status from that of resident to that of nonresident or from that of nonresident to that of resident during the tax year, the taxpayer shall file a return. If a resident obtains employment outside the state, income from the employment is taxable in Montana.

History: En. Sec. 15, Ch. 181, L. 1933; re-en. Sec. 2295.15, R.C.M. 1935; amd. Sec. 9, Ch. 260, L. 1955; amd. Sec. 6, Ch. 253, L. 1959; R.C.M. 1947, 84-4915; amd. Sec. 6, Ch. 14, Sp. L. July 1992; amd. Sec. 162, Ch. 56, L. 2009; Sec. 15-30-132, MCA 2007; redes. 15-30-2112 by Sec. 1, Ch. 147, L. 2009.

15-30-2113. Determination of status — effect of status elections. For purposes of this chapter:

(1) the determination of marital status, dependent status, status as an association, partnership, or individual, and any other status must be made as provided in the Internal Revenue Code; and

(2) the status that a taxpayer claims or elects in a federal income tax return with respect to the taxpayer or another individual or that the taxpayer or other individual is determined to have for federal income tax purposes conclusively determines the status of that individual.

History: En. Sec. 10, Ch. 181, L. 1933; re-en. Sec. 2295.10, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1941; amd. Sec. 1, Ch. 196, L. 1949; amd. Sec. 1, Ch. 233, L. 1957; amd. Sec. 3, Ch. 253, L. 1959; amd. Sec. 2, Ch. 199, L; 1963; amd. Sec. 1, Ch. 363, L. 1974; R.C.M. 1947, 84-4910(h); amd. Sec. 163, Ch. 56, L. 2009; Sec. 15-30-134, MCA 2007; redes. 15-30-2113 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 11, Ch. 503, L. 2021; amd. Sec. 1, Ch. 701, L. 2023.

15-30-2114. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 10, Ch. 181, L. 1933; re-en. Sec. 2295.10, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1941; amd. Sec. 1, Ch. 196, L. 1949; amd. Sec. 1, Ch. 233, L. 1957; amd. Sec. 3, Ch. 253, L. 1959; amd. Sec. 2, Ch. 199, L; 1963; amd. Sec. 1, Ch. 363, L. 1974; R.C.M. 1947, 84-4910(a) thru (e), (i); amd. Sec. 8, Ch. 698, L. 1979; amd. Sec. 3, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 2, Ch. 548, L. 1981; amd. Sec. 3, Ch. 14, Sp. L. July 1992; amd. Sec. 5, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 44, Ch. 544, L. 2003; Sec. 15-30-112, MCA 2007; redes. 15-30-2114 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 470, L. 2009; amd. Sec. 4, Ch. 418, L. 2015.

15-30-2115. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 10, Ch. 181, L. 1933; re-en. Sec. 2295.10, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1941; amd. Sec. 1, Ch. 196, L. 1949; amd. Sec. 1, Ch. 233, L. 1957; amd. Sec. 3, Ch. 253, L. 1959; amd. Sec. 2, Ch. 199, L; 1963; amd. Sec. 1, Ch. 363, L. 1974; R.C.M. 1947, 84-4910(f), (g); amd. Sec. 160, Ch. 56, L. 2009; Sec. 15-30-113, MCA 2007; redes. 15-30-2115 by Sec. 1, Ch. 147, L. 2009.

15-30-2116. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. 84-4910.1 by Sec. 1, Ch. 500, L. 1977; R.C.M. 1947, 84-4910.1; amd. Sec. 10, Ch. 698, L. 1979; amd. Sec. 14, Ch. 472, L. 1997; amd. Sec. 3, Ch. 147, L. 2009; Sec. 15-30-114, MCA 2007; redes. 15-30-2116 by Sec. 1, Ch. 147, L. 2009.

15-30-2117. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: (1)En. Sec. 1, Ch. 43, L. 1953; amd. Sec. 1, Ch. 227, L. 1957; amd. Sec. 1, Ch. 4, L. 1965; amd. Sec. 169, Ch. 516, L. 1973; Sec. 84-4907.1, R.C.M. 1947; (2)En. Sec. 1, Ch. 326, L. 1975; Sec. 84-4907.2, R.C.M. 1947; R.C.M. 1947, 84-4907.1, 84-4907.2; amd. Sec. 5, Ch. 604, L. 2005; amd. Sec. 2, Ch. 308, L. 2007; amd. Sec. 5, Ch. 373, L. 2007; Sec. 15-30-116, MCA 2007; redes. 15-30-2117 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 434, L. 2015; amd. Sec. 1, Ch. 128, L. 2023.

15-30-2118. Taxable liability on termination of independent liability fund. If an independent liability fund established pursuant to Title 33, chapter 27, is terminated as provided in 33-27-119, the income from the principal distributed pursuant to 33-27-119(3) is taxable to that person or persons under the applicable provisions of this chapter.

History: En. Sec. 18, Ch. 564, L. 1987; amd. Sec. 1, Ch. 111, L. 2001; Sec. 15-30-107, MCA 2007; redes. 15-30-2118 by Sec. 1, Ch. 147, L. 2009.

15-30-2119. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 142, L. 1985; amd. Sec. 15, Ch. 83, L. 1989; amd. Sec. 1, Ch. 20, L. 1991; amd. Sec. 2, Ch. 807, L. 1991; amd. Sec. 6, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 67, Ch. 42, L. 1997; amd. Sec. 1, Ch. 487, L. 1999; Sec. 15-30-117, MCA 2007; redes. 15-30-2119 by Sec. 1, Ch. 147, L. 2009.

15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(c) depreciation or amortization taken on a title plant as defined in 33-25-105;

(d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661;

(g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence;

(i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction claimed;

(j) for an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

(k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3).

(3) To the extent they are included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the additions and subtractions in subsections (2) and (3)(b) through (3)(r);

(b) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest; and

(ii) railroad retirement benefits;

(c) (i) salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana;

(ii) the salary received by residents of Montana for active duty in the national guard. For the purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national guard member pursuant to:

(A) Title 10, U.S.C.; or

(B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland defense activity or contingency operation.

(iii) the amount received by a beneficiary pursuant to 10-1-1201; and

(iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) annual contributions and income in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(e) contributions or earnings withdrawn from a family education savings account provided for in Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;

(f) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) for each taxpayer that has attained the age of 65, an additional subtraction of $5,500;

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104;

(i) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1;

(j) the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes;

(k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(l) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

(m) payments from the Montana end of watch trust as provided in 2-15-2041;

(n) (i) subject to subsection (9), a portion of military pensions or military retirement income as calculated pursuant to subsection (8) that is received by a retired member of:

(A) the armed forces of the United States, as defined in 10 U.S.C. 101;

(B) the Montana army national guard or the army national guard of other states;

(C) the Montana air national guard or the air national guard of other states; or

(D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

(ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military service provided for in subsections (3)(n)(i)(A) through (3)(n)(i)(D);

(o) subject to subsection (10), for each taxpayer that is a qualified volunteer firefighter or volunteer emergency care provider, an additional subtraction of $3,000;

(p) income received from the manufacture of ammunition components by an entity, owner, or partner engaged in the primary business of the manufacture of ammunition components as provided in 30-20-207;

(q) income attributable to providing a bona fide loan in an arms'-length transaction to a manufacturer of ammunition components as provided in 30-20-208; and

(r) the amount of the property tax rebate received under 15-1-2307.

(4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit. In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) (a) An individual, a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113 who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of

the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce taxable income by the lesser of $4,500 or the amount of the contribution. Married taxpayers who file a joint return are entitled to a reduction, not in excess of $9,000, for their contributions to the accounts. The reduction in taxable income under this subsection (5)(a) applies only to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply to withdrawals of contributions that reduced federal taxable income.

(b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for in 15-62-208.

(6) (a) An individual, a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113 who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce taxable income by the lesser of $3,000 or the amount of the contribution. Married taxpayers filing a joint return are entitled to a reduction, not to exceed $6,000, for their contributions to the accounts. The reduction in taxable income under this subsection (6)(a) applies only to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply to withdrawals of contributions that reduced taxable income.

(b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-25-118.

(7) (a) By November 1 of each year, the department shall multiply the subtractions from federal taxable income in subsections (3)(g) and (3)(o) by the inflation factor for that tax year for a taxpayer that either:

(i) has attained the age of 65; or

(ii) is a qualified volunteer firefighter or volunteer emergency care provider.

(b) The department shall round the results in subsection (7)(a) to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsections (3)(g) and (3)(o).

(8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

(i) the amount of Montana source wage income on the return; or

(ii) 50% of the taxpayer's military pension or military retirement income.

(b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

(i) wages, salary, tips, and other compensation for services performed in the state;

(ii) net income from a trade, business, profession, or occupation carried on in the state; and

(iii) net income from farming activities carried on in the state.

(9) The subtractions in subsection (3)(n):

(a) may only be claimed by a person who:

(i) became a resident of the state on or after June 30, 2023; or

(ii) was a resident of the state before receiving military pension or military retirement income and remained a resident after receiving military pension or military retirement income;

(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a); and

(c) are not available if a taxpayer claimed the exemption before becoming a nonresident.

(10) To be entitled to the subtraction in subsection (3)(o), a taxpayer, during the year for which the deduction is claimed, must have:

(a) been a volunteer firefighter as defined in 19-17-102 or a volunteer emergency care provider as defined in 50-6-202;

(b) been an active, nonpaid member during the entire calendar year of the same volunteer fire company organized under the provisions of Title 7, chapter 33, part 21, 22, 23, or 24, or the same emergency medical service as defined in 50-6-302; and

(c) completed a minimum of 30 hours of training as specified in 19-17-108(3) for volunteer firefighters or completed the number of training hours prescribed by the state board of medical examiners for emergency care providers.

(11) For the subtraction under subsection (5) from federal taxable income for a taxpayer who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program, the total amount of the contributions for each tax year after 2025 is determined by multiplying the amount in subsection (5)(a) by an inflation factor determined by dividing the consumer price index fund for June of the previous tax year by the consumer price index for June 2024 and rounding the resulting figure to the nearest $100 increment. *(Subsection (3)(r) terminates June 30, 2026—sec. 29, Ch. 767, L. 2025; subsections (3)(p) and (3)(q) terminate December 31, 2035—sec. 11, Ch. 675, L. 2025.)*

History: En. Sec. 1, Ch. 503, L. 2021; amd. Sec. 2, Ch. 46, L. 2023; amd. Sec. 5, Ch. 47, L. 2023; amd. Sec. 2, Ch. 128, L. 2023; amd. Sec. 1, Ch. 650, L. 2023; amd. Sec. 9, Ch. 669, L. 2023; amd. Sec. 2, Ch. 701, L. 2023; amd. Sec. 6, Ch. 702, L. 2023; amd. Sec. 1, Ch. 545, L. 2025; amd. Sec. 1, Ch. 586, L. 2025; amd. Sec. 1, Ch. 638, L. 2025; amd. Sec. 5, Ch. 675, L. 2025; amd. Sec. 1, Ch. 734, L. 2025; amd. Sec. 22, Ch. 767, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section — Coordination: See 2025 Session Law for amendment made by sec. 1, Ch. 545, L. 2025. Amendment effective May 8, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 586, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 1, Ch. 638, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 5, Ch. 675, L. 2025. Amendment effective May 13, 2025, and terminates December 31, 2035.

See 2025 Session Law for amendment made by sec. 1, Ch. 734, L. 2025. Amendment effective May 13, 2025.

See 2025 Session Law for amendment made by sec. 22, Ch. 767, L. 2025. Amendment effective May 13, 2025, and terminates June 30, 2026.

The amendment to subsection (5)(a) made by sec. 1, Ch. 545, L. 2025, was rendered void by sec. 3, Ch. 734, L. 2025, a coordination section.

The amendment to this section made by sec. 21, Ch. 674, L. 2025, was rendered void by sec. 27, Ch. 674, L. 2025, sec. 29, Ch. 674, L. 2025, and sec. 31, Ch. 674, L. 2025, coordination sections.

Applicability — Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

Section 4, Ch. 586, L. 2025, provided: "[This act] applies to tax years beginning after December 31, 2025."

Section 4, Ch. 638, L. 2025, provided: "[This act] applies to income tax years beginning after December 31, 2025."

Section 10, Ch. 675, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 2025."

Section 5, Ch. 734, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2024."

Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Termination Provision Repealed: Section 2, Ch. 586, L. 2025, repealed sec. 4, Ch. 650, L. 2023, which terminated the Ch. 650 amendments to this section December 31, 2033. Effective January 1, 2026.

Transition: Section 2, Ch. 638, L. 2025, provided: "The department of revenue shall update the subtraction amount in 15-30-2120(3)(o) for a qualified volunteer firefighter or volunteer emergency care provider pursuant to 15-30-2120(7) by making the inflation adjustment applicable to income tax years beginning after December 31, 2026."

Transition: Section 67, Ch. 503, L. 2021, provided: "(1) As used in this section, the following definitions apply:

(a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's Montana taxable income related to transition items provided in subsection (3).

(b) "Transition item" means any difference arising prior to January 1, 2024, from a difference in federal and Montana income tax laws in:

(i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;

(ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense; or

(iii) the basis of an asset or liability that will not, after December 31, 2023, increase or decrease a taxpayer's federal taxable income.

(2) An adjustment to Montana taxable income may not be made to take transition items into account except as provided in subsection (3).

(3) On or before the due date, including extensions, of a return for the tax year ending after December 31, 2023, and before January 1, 2025, a taxpayer may, on forms prescribed by the department, file an election to make a transition adjustment to Montana taxable income. The election must specify and account for all transition items, including but not limited to the following:

(a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2023, and before January 1, 2025, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2023, and before January 1, 2025, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA pursuant to section 408A(d)(3) of the Internal Revenue Code but included all the income in the taxpayer's Montana income tax return, the sum of the balance of the federal deferred amount as of January 1, 2024, is a negative adjustment to the taxpayer's Montana taxable income.

(d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers and net operating loss carrybacks under section 172(a) of the Internal Revenue Code in a tax year ending after December 31, 2023, and before January 1, 2025, if the taxpayer's federal net operating loss is different from the taxpayer's Montana net operating loss as of December 31, 2023, no adjustment to the taxpayer's Montana taxable income may be made.

(e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year beginning after December 31, 2022, resulted in a reduction of Montana income tax liability, the refund is, to the extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the taxpayer's Montana taxable income.

(4) The department of revenue is authorized to adopt rules and require facts and information to be reported that it considers necessary to administer the transition adjustment provided in this section."

Cross-References

Servicemen, servicewomen, and veterans allowed special consideration, Art. II, sec. 35, Mont. Const.

15-30-2121 through 15-30-2130 reserved.

15-30-2131. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 6, Ch. 181, L. 1933; re-en. Sec. 2295.6, R.C.M. 1935; amd. Sec. 2, Ch. 167, L. 1947; amd. Sec. 2, Ch. 260, L. 1955; amd. Sec; 1, Ch. 102, L. 1977; amd. Sec. 2, Ch. 574, L. 1977; amd. Sec. 5, Ch. 576, L. 1977; R.C.M. 1947, 84-4906; amd. Sec. 1, Ch. 90, L. 1979; amd. Sec. 1, Ch. 129, L. 1979; amd. Sec. 3, Ch. 480, L. 1981; amd. Sec. 4, Ch. 533, L; 1981; amd. Sec. 20, Ch. 614, L. 1981; amd. Sec. 1, Ch. 118, L. 1983; amd. Sec. 10, Ch. 516, L. 1985; amd. Sec. 8, Ch. 610, L. 1985; amd. Sec. 1, Ch. 613, L. 1985; amd. Sec. 1, Ch. 501, L. 1987; amd. Sec. 11, Ch. 611, L. 1987; amd. Sec. 1, Ch. 613, L. 1991; amd. Sec. 2, Ch. 670, L. 1991; amd. Sec. 6, Ch. 808, L. 1991; amd. Sec. 1, Ch. 565, L. 1993; amd. Sec. 1, Ch. 284, L. 1995; amd. Sec. 68, Ch. 42, L. 1997; amd. Sec. 1, Ch. 218, L. 1997; amd. Secs. 1, 2(2), Ch. 383, L. 1997; amd. Sec. 10, Ch. 515, L. 1999; amd. Sec. 102, Ch. 574, L. 2001; amd. Sec. 25, Ch. 114, L. 2003; amd. Sec. 6, Ch. 482, L. 2003; amd. Sec. 45, Ch. 544, L. 2003; amd. Sec. 14, Ch. 542, L. 2005; Sec. 15-30-121, MCA 2007; redes. 15-30-2131 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 4, Ch. 166, L. 2023.

15-30-2132. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 8, Ch. 181, L. 1933; re-en. Sec. 2295.8, R.C.M. 1935; amd. Sec. 1, Ch. 207, L. 1949; amd. Sec. 1, Ch. 187, L. 1953; amd. Sec; 4, Ch. 260, L. 1955; amd. Sec. 1, Ch. 202, L. 1969; amd. Sec. Ch. 357, L; 1971; R.C.M. 1947, 84-4908; amd. Sec. 11, Ch. 698, L. 1979; amd. Sec. 4, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 516, L. 1981; amd. Sec. 1, Ch. 501, L. 1983; amd. Sec. 1, Ch. 30, L. 1985; amd. Sec. 4, Ch. 14, Sp. L. July 1992; amd. Sec. 7, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 1, Ch. 435, L. 1995; amd. Sec. 46, Ch. 544, L. 2003; Sec. 15-30-122, MCA 2007; redes. 15-30-2132 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 5, Ch. 418, L. 2015.

15-30-2133. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 9, Ch. 181, L. 1933; re-en. Sec. 2295.9, R.C.M. 1935; R.C.M. 1947, 84-4909; amd. Sec. 2, Ch. 399, L. 1995; Sec. 15-30-123, MCA 2007; redes. 15-30-2133 by Sec. 1, Ch. 147, L. 2009.

15-30-2134 through 15-30-2140 reserved.

15-30-2141. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Secs. 9, 11, 14, Ch. 564, L. 1987; Sec. 15-30-127, MCA 2007; redes. 15-30-2141 by Sec. 1, Ch. 147, L. 2009.

15-30-2142. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 11, Ch. 491, L. 2003; Sec. 15-30-154, MCA 2007; redes. 15-30-2142 by Sec. 1, Ch. 147, L. 2009.

15-30-2143. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 10, Ch. 610, L. 1985; amd. Sec. 166, Ch. 56, L. 2009; Sec. 15-30-156, MCA 2007; redes. 15-30-2143 by Sec. 1, Ch. 147, L. 2009.

15-30-2144. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 11, Ch. 610, L. 1985; Sec. 15-30-157, MCA 2007; redes. 15-30-2144 by Sec. 1, Ch. 147, L. 2009.

15-30-2145 through 15-30-2150 reserved.

15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax is imposed on the fiduciaries or the beneficiaries of estates and trusts in the same manner and to the same extent as federal income tax is imposed on them under the Internal Revenue Code.

(2) The fiduciary is responsible for making the return of income for the estate or trust for which the fiduciary acts, whether the fiduciary or the beneficiaries are responsible for the payment of the tax with reference to the income of the estate or trust. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the tax year for which the return is made, and at the request of the department shall furnish a copy of the federal income tax return for the estate or trust as provided in 15-30-2619. The department may require a fiduciary of an estate or trust to provide a copy of the federal schedule of the beneficiary's share of income, deductions, and credits when filing the Montana individual income tax return.

(3) The tax imposed on the fiduciary of the estate or trust must be paid by the fiduciary.

History: En. Sec. 12, Ch. 181, L. 1933; re-en. Sec. 2295.12, R.C.M. 1935; amd. Sec. 6, Ch. 260, L. 1955; R.C.M. 1947, 84-4912; amd. Sec. 1, Ch. 2, L. 1983; amd. Sec. 1, Ch. 260, L. 1983; amd. Sec. 164, Ch. 56, L. 2009; Sec. 15-30-135, MCA 2007; redes. 15-30-2151 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 12, Ch. 503, L. 2021.

15-30-2152. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Secs. 2, 3(1), (2), Ch. 260, L. 1983; amd. Sec. 2, Ch. 464, L. 1985; amd. Sec. 2, Ch. 657, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 4, Ch. 807, L. 1991; amd. Sec. 3, Ch. 823, L. 1991; amd. Sec. 7, Ch. 14, Sp. L. July 1992; amd. Sec. 1, Ch. 103, L. 1993; amd. Sec. 8, Ch. 9, Sp. L. May 2000; amd. Sec. 26, Ch. 114, L. 2003; Sec. 15-30-136, MCA 2007; redes. 15-30-2152 by Sec. 1, Ch. 147, L. 2009.

15-30-2153. Determination of tax of estates and trusts. The amount of tax is determined from Montana taxable income of an estate or trust as adjusted in 15-30-2120 by applying the rates contained in 15-30-2103 or, if applicable, the rate contained in 15-30-3704. Credits allowed to individuals under Title 15, chapter 30, also apply to estates and trusts when applicable.

History: En. Sec. 3(3), Ch. 260, L. 1983; amd. Sec. 11, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); Sec. 15-30-137, MCA 2007; redes. 15-30-2153 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 6, Ch. 458, L. 2021; amd. Sec. 13, Ch. 503, L. 2021.

15-30-2154. Estates and trusts tax remedies. Remedies available for the administration, enforcement, and collection of individual income taxes also apply to estates and trusts.

History: En. Sec. 3(4), Ch. 260, L. 1983; Sec. 15-30-138, MCA 2007; redes. 15-30-2154 by Sec. 1, Ch. 147, L. 2009.

15-30-2155 through 15-30-2190 reserved.

15-30-2191. Terminated. Sec. 9, Ch. 44, L. 2023, sec. 10, Ch. 764, L. 2023.

History: En. Sec. 2, Ch. 44, L. 2023; amd. Sec. 4, Ch. 764, L. 2023; amd. Sec. 10, Ch. 53, L. 2025.

Part 22 reserved

Part 23
Specific Tax Credits and Tax Checkoffs

15-30-2301. Repealed. Secs. 65, 70(1), Ch. 503, L. 2021.

History: En. Sec. 40, Ch. 544, L. 2003; Sec. 15-30-183, MCA 2007; redes. 15-30-2301 by Sec. 1, Ch. 147, L. 2009.

15-30-2302. Credit allowed resident taxpayers for income taxes imposed by foreign states or countries. (1) Subject to the conditions provided in subsections (2) through (6), a resident of this state is allowed a credit against the taxes imposed by this chapter for:

(a) income taxes imposed by and paid to another state or country on income taxable under this chapter;

(b) the resident's pro rata share of any income tax imposed by and paid to another state or country by an S. corporation of which the resident is a shareholder; and

(c) the resident's distributive share, whether separately or nonseparately stated, of any income tax imposed by and paid to another state or country by a partnership of which the resident is a partner.

(2) The credit is allowed only for taxes paid to another state or country on income derived from sources within the other state or country that is taxable under the laws of the other state or country regardless of the residence or domicile of the taxpayer.

(3) The credit is not allowed if the other state or country allows residents of this state a credit against the taxes imposed by the other state or country for taxes paid or payable under this chapter.

(4) The credit is not allowed on taxes imposed by a foreign country to the extent that a credit for the taxes imposed by the foreign country was claimed for federal income tax purposes.

(5) The allowable credit must be computed by a formula prescribed by the department.

(6) For the purposes of the credit under subsections (1)(b) and (1)(c):

(a) "income tax" has the same meaning as provided in Article II of 15-1-601;

(b) the S. corporation must have made and have in effect on the last day of its tax year a valid election under subchapter S. of Chapter 1 of the Internal Revenue Code; and

(c) the credit applies only to taxes paid by the S. corporation or partnership on income taxable under this chapter.

History: En. Sec. 2, Ch. 28, L. 1941; amd. Sec. 7, Ch. 253, L. 1959; amd; Sec. 181, Ch. 516, L. 1973; R.C.M. 1947, 84-4937; amd. Sec. 8, Ch. 143, L. 2001; amd. Sec. 47, Ch. 544, L. 2003; amd. Sec. 1, Ch. 95, L. 2005; Sec. 15-30-124, MCA 2007; redes. 15-30-2302 by Sec. 1, Ch. 147, L. 2009.

15-30-2303. Tax credits subject to review by interim committee. (1) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 8 years thereafter:

(a) the credit for donations to innovative educational programs provided for in 15-30-2334, 15-30-3110, and 15-31-158;

(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159; and

(c) the adoption tax credit provided for in 15-30-2321.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and during each biennium commencing 8 years thereafter:

(a) the credit for infrastructure use fees provided for in 17-6-316;

(b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6; and

(d) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and during each biennium commencing 8 years thereafter:

(a) the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(b) the credit for unlocking state lands provided for in 15-30-2380;

(c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

(d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and during each biennium commencing 8 years thereafter:

(a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(b) the earned income tax credit provided for in 15-30-2318;

(c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009; and

(d) the credit for contractor's gross receipts provided for in 15-50-207.

(5) The revenue interim committee shall review the tax credits scheduled for review and make recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about whether to eliminate or revise the credits. The committee shall also review

any tax credit with an expiration date or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or terminate.

(6) The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy. *(Subsection (3)(d) terminates December 31, 2028—sec. 2, Ch. 576, L. 2023; subsection (1)(c) terminates December 31, 2031—sec. 6, Ch. 493, L. 2023.)*

History: En. Sec. 1, Ch. 399, L. 2019; amd. Sec. 20, Ch. 163, L. 2019; amd. Sec. 15, Ch. 352, L. 2019; amd. Sec. 5, Ch. 399, L. 2019; amd. Sec. 1, Ch. 15, L. 2021; amd. Sec. 2, Ch. 35, L. 2021; amd. Sec. 3, Ch. 248, L. 2021; amd. Sec. 34, Ch. 261, L. 2021; amd. Sec. 14, Ch. 503, L. 2021; amd. Sec. 16, Ch. 550, L. 2021; amd. Sec. 1, Ch. 19, L. 2023; amd. Sec. 2, Ch. 493, L. 2023.

Compiler's Comments

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated the Ch. 550, L. 2021, amendments to this section December 31, 2028. Effective October 1, 2025.

15-30-2304 through 15-30-2317 reserved.

15-30-2318. Earned income tax credit. (1) Except as provided in subsection (3), a resident taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(2) The amount of the credit allowed under subsection (1) is 20% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(3) The credit is not allowed on earned income that is treated as a dividend received by a member of an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d). For the purpose of this subsection, the amount of the state tax credit provided for in subsection (2) is reduced by the reduction percentage.

(4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the credit. The credit may be claimed by filing a Montana income tax return.

(5) For the purpose of this section, the following definitions apply:

(a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under subsection (2).

(b) "Reduction percentage" means a percentage that is calculated by dividing the earned income that is disallowed under subsection (3) by the total amount of earned income.

History: En. Sec. 1, Ch. 381, L. 2017; amd. Sec. 2, Ch. 50, L. 2023; amd. Sec. 3, Ch. 701, L. 2023; amd. Sec. 3, Ch. 227, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 227, L. 2025. Amendment effective January 1, 2026.

Applicability: Section 6, Ch. 227, L. 2025, provided that the amendments to this section apply to the income tax year beginning January 1, 2026.

15-30-2319. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 2, Ch. 480, L. 1981; Sec. 15-30-125, MCA 2007; redes. 15-30-2319 by Sec. 1, Ch. 147, L. 2009.

15-30-2320. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 617, L. 1993; Sec. 15-30-164, MCA 2007; redes. 15-30-2320 by Sec. 1, Ch. 147, L. 2009.

15-30-2321. *(Temporary)* **Adoption tax credit — rulemaking.** (1) A resident taxpayer is allowed a credit against the tax imposed by 15-30-2103 or 15-30-2151 for the legal adoption of an eligible child on or after July 1, 2022.

(2) The amount of the credit allowed under subsection (1) is equal to:

(a) $7,500 in the tax year the adoption is final if the eligible child was in foster care under the custody of the state as provided in Title 41, chapter 3, at the time of adoption; or

(b) $5,000 in the tax year the adoption is final if the eligible child does not meet the requirements of subsection (2)(a).

(3) To claim the credit under this section, the taxpayer shall:

(a) include the name, age, location of birth, and federal tax identification number, if known, of the eligible child on the tax return; and

(b) provide other information as required by the department, including the identification of an agent assisting with the adoption.

(4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the credit. The credit may be claimed by filing a Montana income tax return.

(5) Only one credit is allowed for each eligible child.

(6) The department shall adopt rules to administer this credit.

(7) For the purposes of this section, "eligible child" means a child under the age of 18 or a person who is physically or mentally incapable of providing self-care. *(Terminates December 31, 2031—sec. 6, Ch. 493, L. 2023.)*

History: En. Sec. 1, Ch. 493, L. 2023.

15-30-2322 through 15-30-2325 reserved.

15-30-2326. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 542, L. 1991; amd. Sec. 1, Ch. 152, L. 1995; Sec. 15-30-163, MCA 2007; redes. 15-30-2326 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 140, L. 2011.

15-30-2327. Qualified endowments credit — definitions — rules. (1) For the purposes of 15-30-2328 and this section, the following definitions apply:

(a) (i) "Permanent, irrevocable fund" means a fund comprising cash, securities, mutual funds, or other investment assets established for a specific charitable, religious, educational, or eleemosynary purpose and managed, invested, and appropriated pursuant to the Uniform Prudent Management of Institutional Funds Act provided for in Title 72, chapter 30.

(ii) The term does not include a fund held by or for a tax-exempt organization to accomplish a charitable, religious, educational, or eleemosynary purpose from which contributions are expended directly for constructing, renovating, or purchasing operational assets, such as buildings or equipment.

(b) Subject to subsection (3), "planned gift" means an irrevocable contribution to a permanent endowment held by or for a tax-exempt organization when the contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

(i) charitable remainder unitrusts, as defined by 26 U.S.C. 664;

(ii) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;

(iii) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);

(iv) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);

(v) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);

(vi) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);

(vii) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);

(viii) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);

(ix) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

(c) "Qualified endowment" means a permanent, irrevocable fund that is held by a Montana incorporated or established organization that:

(i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or

(ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on behalf of a tax-exempt organization.

(2) (a) Terms in a document creating a donor restriction, such as those provided for in subsection (2)(b), intending to qualify a gift for the tax credit referenced in 15-30-2328, 15-30-2329, 15-31-161, 15-31-162, and this section, require that the gift satisfy the current definition of permanent, irrevocable fund and not any previous definition unless other language in the document demonstrates a different intent.

(b) The restrictions referenced in subsection (2)(a) include but are not limited to a requirement that the contribution be held in a "qualified endowment" or "permanent, irrevocable fund" or that the "present value of the fund at the time of the planned gift or outright contribution" not be expendable.

(c) Subsections (2)(a) and (2)(b) apply to funds and terms existing on or established on April 26, 2013. As applied to permanent, irrevocable funds existing on April 26, 2013, this subsection (2) governs only decisions made or actions taken on or after that date.

(3) (a) A contribution using a technique described in subsection (1)(b)(i) or (1)(b)(ii) is not a planned gift unless the trust agreement provides that the trust may not terminate and the beneficiaries' interest in the trust may not be assigned or contributed to the qualified endowment sooner than the earlier of:

(i) the date of death of the beneficiaries; or

(ii) 5 years from the date of the contribution.

(b) A contribution using the technique described in subsection (1)(b)(vii) is not a planned gift unless the first partial or full-year payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted by rule by the department in effect on the date of the contribution.

(c) A contribution using a technique described in subsection (1)(b)(vi) or (1)(b)(vii) is not a planned gift unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be assigned to the qualified endowment sooner than the earlier of:

(i) the date of death of the annuitant or annuitants; or

(ii) 5 years after the date of the contribution.

(d) A contribution using a technique described in subsection (1)(b)(vi) or (1)(b)(vii) is not a planned gift unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(e) A contribution using a technique described in subsection (1)(b)(vii) is not a planned gift unless the annuity rate to be paid is at least 5%.

(4) The department shall adopt rules to prepare life expectancy tables that are derived from the actuarial tables contained in the most recent Publication 1457 by the internal revenue service.

History: En. Sec. 1, Ch. 537, L. 1997; amd. Sec. 1, Ch. 226, L. 2001; amd. Sec. 3, Ch. 411, L. 2001; amd. Sec. 7, Ch. 482, L. 2003; amd. Sec. 1, Ch. 208, L. 2007; Sec. 15-30-165, MCA 2007; redes. 15-30-2327 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 317, L. 2013.

15-30-2328. Credit for contributions to qualified endowment — recapture of credit — deduction included as income. (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is $15,000. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(3) If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

(a) include as income the amount deducted in any prior year that is attributable to the charitable gift to the extent that the deduction reduced the taxpayer's individual income tax or corporate income tax; and

(b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken.

History: En. Sec. 2, Ch. 537, L. 1997; amd. Sec. 2, Ch. 226, L. 2001; amd. Secs. 1, 2, Ch. 24, Sp. L. August 2002; amd. Sec. 2, Ch. 4, L. 2005; Sec. 15-30-166, MCA 2007; redes. 15-30-2328 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 6, Ch. 268, L. 2013; amd. Sec. 15, Ch. 503, L. 2021; amd. Sec. 1, Ch. 690, L. 2023.

15-30-2329. Beneficiaries of estates — credit for contribution to qualified endowment. A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax purposes. The maximum amount of credit that a beneficiary may claim is $15,000, and the credit must be claimed in the year in which the contribution is made. The credit may not be carried forward or carried back.

History: En. Sec. 5, Ch. 537, L. 1997; amd. Secs. 3, 4, Ch. 24, Sp. L. August 2002; Sec. 15-30-167, MCA 2007; redes. 15-30-2329 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 16, Ch. 503, L. 2021; amd. Sec. 2, Ch. 690, L. 2023.

15-30-2330 through 15-30-2333 reserved.

15-30-2334. *(Temporary)* **Credit for providing supplemental funding to public schools — innovative educational program.** There is a credit against tax liability under this chapter for a donation made to the educational improvement account as provided in 15-30-3110. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 18, Ch. 457, L. 2015.

15-30-2335. *(Temporary)* **Qualified education individual income tax credit for contributions to student scholarship organization.** There is a credit against tax liability under this chapter for a charitable donation made to a student scholarship organization as provided in 15-30-3111. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 19, Ch. 457, L. 2015.

15-30-2336. Repealed. Sec. 1, Ch. 30, L. 2017.

History: En. Sec. 6, Ch. 6, Sp. L. May 2007; amd. Sec. 34, Ch. 2, L. 2009; Sec. 15-30-140, MCA 2007; redes. 15-30-2336 by Sec. 1, Ch. 147, L. 2009.

15-30-2337. Residential property tax credit for elderly — definitions. As used in 15-30-2337 through 15-30-2341, the following definitions apply:

(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(2) "Claimant" means a person who is eligible to file a claim under 15-30-2338.

(3) "Department" means the department of revenue.

(4) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(5) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the landlord.

(6) "Homestead" means:

(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

(7) (a) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(8) "Household income" means the amount obtained by subtracting $12,600 from gross household income.

(9) (a) "Income" means, except as provided in subsection (9)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home.

(b) For the purposes of this subsection (9), income is reduced by the taxpayer's basis.

(10) "Property tax billed" means taxes levied against the homestead, including special assessments and fees but excluding penalties or interest during the claim period.

(11) "Rent-equivalent tax paid" means 15% of the gross rent.

History: En. Sec. 1, Ch. 584, L. 1981; amd. Sec. 1, Ch. 134, L. 1983; amd. Sec. 1, Ch. 605, L. 1983; amd. Sec. 1, Ch. 27, L. 1987; amd. Sec. 1, Ch. 559, L. 1989; amd. Sec. 1, Ch. 693, L. 1989; amd. Sec. 3, Ch. 612, L. 1991; amd. Sec. 1, Ch. 543, L. 1997; amd. Sec. 1, Ch. 445, L. 1999; amd. Sec. 4, Ch. 147, L. 2009; Sec. 15-30-171, MCA 2007; redes. 15-30-2337 by Sec. 1, Ch. 147, L. 2009; amd. Secs. 1 thru 5, Ch. 476, L. 2021.

Compiler's Comments

Contingent Termination: Section 13, Ch. 476, L. 2021, provided: "(1) The legislature intends to provide the tax relief provided by [this act] [amendments to 15-30-2337(8) and 15-30-2340(6)] while also preventing the loss of federal funds that are available to the state as part of the recently enacted American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through (5) are limited to the duration of time established by each subsection and are necessary based on the lack of information available to the legislature from the federal government at the time of enactment of [this act].

(2) [Sections 1 and 6] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made in calendar year 2021.

(3) [Sections 2 and 7] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December 31, 2022.

(4) [Sections 3 and 8] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December 31, 2023.

(5) [Sections 4 and 9] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December 31, 2024.

(6) (a) The budget director shall continually evaluate whether implementation of a section of [this act] [15-30-2337 and 15-30-2340] will:

(i) result in a reduction of funds from the American Rescue Plan Act; or

(ii) require the state of Montana to repay or refund to the federal government pursuant to the American Rescue Plan Act.

(b) The budget director shall consider guidance from:

(i) the federal government about the American Rescue Plan Act, Public Law 117-2;

(ii) court decisions about the American Rescue Plan Act;

(iii) amendments to the American Rescue Plan Act;

(iv) any information provided by the attorney general; and

(v) other relevant information about the American Rescue Plan Act.

(c) If the budget director determines that the implementation of a section of this act may result in a reduction of funds or require the state to repay or refund to the federal government funds based on the guidance in subsection (6)(b), the budget director shall notify the legislative finance committee of the preliminary determination. The budget director's notification of the preliminary determination may occur after January 1 but no later than December 10 of each of the calendar years 2021, 2022, 2023, and 2024. Within 20 days of notification, the legislative finance committee shall provide the budget director with any recommendations concerning the preliminary determination. The budget director shall consider any recommendations of the legislative finance committee.

(7) If the budget director determines that the implementation of a section of this act would more likely than not result in a reduction of funds or require the state to repay or refund to the federal government funds based on the guidance in subsection (6)(b) and the recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide certification in writing to the legislative finance committee and the code commissioner of the occurrence of the relevant contingency provided for in subsections (2) through (5)." Enacted May 12, 2021, and terminates January 1, 2025.

15-30-2338. Residential property tax credit for elderly — eligibility — disallowance or adjustment. (1) In order to be eligible to make a claim under 15-30-2337 through 15-30-2341, an individual:

(a) must have reached age 62 or older during the claim period for which relief is sought;

(b) must have resided in Montana for at least 9 months of that period;

(c) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period; and

(d) must have less than $45,000 of gross household income.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period, provided that the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period.

(3) A claim is disallowed if the department finds that the claimant received title to the claimant's homestead primarily for the purpose of receiving benefits under 15-30-2337 through 15-30-2341.

(4) When the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.

History: En. Sec. 2, Ch. 584, L. 1981; amd. Sec. 2, Ch. 27, L. 1987; amd. Sec. 2, Ch. 543, L. 1997; amd. Sec. 2, Ch. 547, L. 1999; amd. Sec. 5, Ch. 147, L. 2009; Sec. 15-30-172, MCA 2007; redes. 15-30-2338 by Sec. 1, Ch. 147, L. 2009.

15-30-2339. Residential property tax credit for elderly — filing date. (1) Except as provided in subsection (3), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought. If April 15 falls on a holiday that defers a filing date that is recognized by the internal revenue service and that is not observed in Montana, the claim may be made on the first business day after the holiday.

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) In the event that an individual who would have a claim under 15-30-2337 through 15-30-2341 dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under 15-30-2337 through 15-30-2341 within 3 years from the last day prescribed for filing a claim for relief.

History: En. Sec. 4, Ch. 584, L. 1981; amd. Sec. 1, Ch. 66, L. 2003; amd. Sec. 6, Ch. 147, L. 2009; Sec. 15-30-174, MCA 2007; redes. 15-30-2339 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 6, Ch. 19, L. 2011; amd. Sec. 4, Ch. 308, L. 2015; amd. Sec. 2, Ch. 545, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 545, L. 2025. Amendment effective May 8, 2025.

Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

15-30-2340. Residential property tax credit for elderly — computation of relief. The amount of the tax credit granted under the provisions of 15-30-2337 through 15-30-2341 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax billed less the deduction specified in subsection (4).

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax billed on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4).

(4) Property tax billed and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
$0 - $999	$0
$1,000 - $1,999	$0
$2,000 - $2,999	the product of .006 times the household income
$3,000 - $3,999	the product of .016 times the household income
$4,000 - $4,999	the product of .024 times the household income

$5,000 - $5,999	the product of .028 times the household income
$6,000 - $6,999	the product of .032 times the household income
$7,000 - $7,999	the product of .035 times the household income
$8,000 - $8,999	the product of .039 times the household income
$9,000 - $9,999	the product of .042 times the household income
$10,000 - $10,999	the product of .045 times the household income
$11,000 - $11,999	the product of .048 times the household income
$12,000 & over	the product of .050 times the household income

(5) For a claimant whose household income is $35,000 or more but less than $45,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Gross household income	Percentage of credit allowed
$35,000 - $37,500	40%
$37,501 - $40,000	30%
$40,001 - $42,500	20%
$42,501 - $44,999	10%
$45,000 or more	0%

(6) The credit granted may not exceed $1,150.

(7) Relief under 15-30-2337 through 15-30-2341 is a credit against the claimant's Montana individual income tax liability for the claim period. If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no income taxable under this chapter.

History: En. Sec. 6, Ch. 584, L. 1981; amd. Sec. 2, Ch. 134, L. 1983; amd. Sec. 11, Ch. 574, L. 1995; amd. Sec. 3, Ch. 543, L. 1997; amd. Sec. 3, Ch. 547, L. 1999; amd. Sec. 7, Ch. 147, L. 2009; Sec. 15-30-176, MCA 2007; redes. 15-30-2340 by Sec. 1, Ch. 147, L. 2009; amd. Secs. 6 thru 10, Ch. 476, L. 2021.

Compiler's Comments

Contingent Termination: Section 13, Ch. 476, L. 2021, provided: "(1) The legislature intends to provide the tax relief provided by [this act] [amendments to 15-30-2337(8) and 15-30-2340(6)] while also preventing the loss of federal funds that are available to the state as part of the recently enacted American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through (5) are limited to the duration of time established by each subsection and are necessary based on the lack of information available to the legislature from the federal government at the time of enactment of [this act].

(2) [Sections 1 and 6] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made in calendar year 2021.

(3) [Sections 2 and 7] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December 31, 2022.

(4) [Sections 3 and 8] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December 31, 2023.

(5) [Sections 4 and 9] [amendments to 15-30-2337(8) and 15-30-2340(6)] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December 31, 2024.

(6) (a) The budget director shall continually evaluate whether implementation of a section of [this act] [amendments to 15-30-2337(8) and 15-30-2340(6)] will:

(i) result in a reduction of funds from the American Rescue Plan Act; or

(ii) require the state of Montana to repay or refund to the federal government pursuant to the American Rescue Plan Act.

(b) The budget director shall consider guidance from:

(i) the federal government about the American Rescue Plan Act, Public Law 117-2;

(ii) court decisions about the American Rescue Plan Act;

(iii) amendments to the American Rescue Plan Act;

(iv) any information provided by the attorney general; and

(v) other relevant information about the American Rescue Plan Act.

(c) If the budget director determines that the implementation of a section of this act may result in a reduction of funds or require the state to repay or refund to the federal government funds based on the guidance in subsection (6)(b), the budget director shall notify the legislative finance committee of the preliminary determination. The budget director's notification of the preliminary determination may occur after January 1 but no later than December 10 of each of the calendar years 2021, 2022, 2023, and 2024. Within 20 days of notification, the legislative finance committee shall provide the budget director with any recommendations concerning the preliminary determination. The budget director shall consider any recommendations of the legislative finance committee.

(7) If the budget director determines that the implementation of a section of this act would more likely than not result in a reduction of funds or require the state to repay or refund to the federal government funds based on the guidance in subsection (6)(b) and the recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide certification in writing to the legislative finance committee and the code commissioner of the occurrence of the relevant contingency provided for in subsections (2) through (5)." Enacted May 12, 2021 and terminates January 1, 2025.

15-30-2341. Residential property tax credit for elderly — limitations — denial of claim. (1) Only one claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 is entitled to relief.

(2) Except as provided in subsection (3), a claim for relief may not be allowed for any portion of property taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(4) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid, penalties, and interest may be recovered as provided in 15-1-216.

History: En. Sec. 7, Ch. 584, L. 1981; amd. Sec. 3, Ch. 134, L. 1983; amd. Sec. 2, Ch. 559, L. 1989; amd. Sec. 4, Ch. 543, L. 1997; amd. Sec. 8, Ch. 147, L. 2009; Sec. 15-30-177, MCA 2007; redes. 15-30-2341 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 5, Ch. 308, L. 2015.

15-30-2342. Credit for preservation of historic buildings. There is allowed as a credit against the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151.

History: En. Sec. 2, Ch. 545, L. 1997; amd. Sec. 1, Ch. 538, L. 2001; Sec. 15-30-180, MCA 2007; redes. 15-30-2342 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 3, Ch. 545, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 545, L. 2025. Amendment effective May 8, 2025.

Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

15-30-2343 through 15-30-2355 reserved.

15-30-2356. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 6, Ch. 582, L. 2003; Sec. 15-30-182, MCA 2007; redes. 15-30-2356 by Sec. 1, Ch. 147, L. 2009.

15-30-2357. Tax credit for hiring registered apprentice or veteran apprentice. (1) Subject to the provisions of 39-6-109, a taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter for employing a registered apprentice or registered veteran apprentice who works in Montana.

(2) The credit may not exceed the taxpayer's tax liability and may not be carried forward or carried back.

(3) The credit may be claimed only in the tax year in which the department of labor and industry approved the credit as provided in 39-6-109(4). If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return must be processed without regard to the credit.

(4) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(5) Subject to the probationary period provided for in 39-6-109, if an employer employs an apprentice for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the apprentice was employed.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry an annual report detailing the tax credit provided to employers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit.

History: En. Sec. 2, Ch. 380, L. 2017; amd. Sec. 17, Ch. 550, L. 2021; amd. Sec. 1, Ch. 751, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 751, L. 2025. Amendment effective October 1, 2025.

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated the Ch. 550, L. 2021, amendments to this section December 31, 2028. Effective October 1, 2025.

15-30-2358. Repealed. Sec. 3, Ch. 399, L. 2019.

History: En. Sec. 2, Ch. 444, L. 1999; Sec. 15-30-168, MCA 2007; redes. 15-30-2358 by Sec. 1, Ch. 147, L. 2009.

15-30-2359. *(Temporary)* **Tax credit for trades education and training.** (1) Subject to the provisions of this section, an employer taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter for expenses incurred in the provision of certain education and training of employees for a trade profession who work or are anticipated to work in Montana for at least 6 months of the year in which the education or training occurs.

(2) The credit is equal to 50% of the qualified education and training expenses incurred by an employer for the benefit of an employee, not to exceed $2,000 per employee annually. An employer's total credit allowed under subsection (1) on an annual basis may not exceed $25,000.

(3) The credit may not exceed the employer's tax liability and may not be carried forward or carried back.

(4) The credit allowed under this section may not be claimed by an employer:

(a) if the employer has included the qualified education and training expenses upon which the amount of the credit was computed as a deduction in computing the tax imposed by chapter 31 or this chapter; or

(b) for any amount of qualified education and training expenses that are paid for with a grant or other similar program to provide money for education and training of employees.

(5) The credit permitted under this section must be applied to the tax year in which the employer incurs the qualified education and training expenses.

(6) If during any tax year a qualified education and training expense incurred by the employer is recovered by the employer, the employer shall:

(a) include as income the amount deducted in any prior year that is attributable to the qualified education and training expense incurred by the employer to the extent that the deduction reduced the employer's individual income tax or corporate income tax; and

(b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken.

(7) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit. The rules may include additional trade professions beyond those listed in subsection (8)(c). The legislature intends that the department implement this credit in a manner that encourages employers to provide education and training in a broad range of trade professions.

(8) For the purposes of this section, the following definitions apply:

(a) "Qualified education and training expenses" means those expenses actually incurred by the employer that are paid to a third party and include but are not limited to expenses for tuition, fees, books, supplies, or equipment required as part of a qualified training method to assist an employee of the employer in developing additional techniques and skills in a trade profession.

(b) "Qualified training method" means education and training provided in any of the following methods:

(i) classroom education or training in which the employee travels to the educator or trainer;

(ii) on-site education or training in which the educator or trainer travels to the business and customizes the education or training to the employer's needs; or

(iii) online education or training that is interactive, in which:

(A) the employee has access to the educator or trainer;

(B) the employee demonstrates or practices what the employee is learning; and

(C) the online education or training has the capability to provide suitable proof of completion.

(c) "Trade profession" means skilled occupations in a specialized craft requiring advanced training and education but not typically requiring a 4-year postsecondary degree, including but not limited to:

(i) agricultural equipment operators, inspectors, farm and ranch workers, and laborers;
(ii) boilermakers, boiler operators, and refractory materials repairers;
(iii) brick masons, block masons, stone masons, stucco masons, and plasterers;
(iv) carpenters, cabinetmakers, and woodworkers;
(v) carpet installers and flooring finishers and sanders;
(vi) cement masons and terrazzo workers;
(vii) construction and building inspectors;
(viii) construction equipment operators;
(ix) construction managers, laborers, and helpers;
(x) drywall and ceiling tile installers and tapers, paperhangers, and insulation workers;
(xi) electricians and electric linemen;
(xii) elevator installers and repairers;
(xiii) extraction-related professions, including:
(A) explosives workers, ordnance handling experts, and blasters;
(B) surface mining machine operators and earth drillers;
(C) quarry rock splitters;
(D) underground mining machine operators; and
(E) other extraction helpers and workers;
(xiv) fabricators, fitters, and assemblers;
(xv) food manufacturing and processing;
(xvi) glaziers;
(xvii) HVAC workers;
(xviii) information technology related professions, including:
(A) computer information analysts;
(B) database and network administrators;
(C) architects; and
(D) specialists and support professionals;
(xix) locksmiths and safe repairers;
(xx) logging and lumbering;
(xxi) machinists and tool and die makers;
(xxii) mechanics, repairers, and service technicians for automobiles, aircraft, commercial vehicles, and small engines;
(xxiii) medical and dental professionals, including:
(A) dental hygienists;
(B) emergency medical technicians and paramedics;
(C) medical assistants;
(D) pharmacy aides and technicians; and
(E) phlebotomists;
(xxiv) millwrights;
(xxv) oil and gas workers;
(xxvi) painters;
(xxvii) plumbers, pipefitters, pipelayers, septic tank servicers, sewer pipe cleaners, and steamfitters;
(xxviii) roofers;
(xxix) metal and plastics workers;
(xxx) solar voltaic installers;
(xxxi) structural iron, reinforcing iron, rebar, and steel workers;
(xxxii) telecommunications tower technicians, equipment installers and repairers, and line installers and repairers;
(xxxiii) textile, apparel, and furnishings workers;
(xxxiv) tile and marble setters;

(xxxv) trucking and truck drivers;
(xxxvi) water well drillers;
(xxxvii) welders; and
(xxxviii) wind turbine technicians. *(Terminates December 31, 2028—sec. 2, Ch. 576, L. 2023.)*

History: En. Sec. 1, Ch. 248, L. 2021; amd. Sec. 1, Ch. 576, L. 2023.

15-30-2360 reserved.

15-30-2361. Grow Montana jobs — annual job growth incentive tax credit. (1) Subject to the provisions of 39-11-404, a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees in the credit certificate under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in 39-11-404. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(9) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in 39-11-404.

History: En. Secs. 2, 5, 8, 11, 14, Ch. 550, L. 2021; amd. Sec. 1, Ch. 391, L. 2023; amd. Sec. 2, Ch. 751, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 751, L. 2025. Amendment effective October 1, 2025.

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated this section December 31, 2028. Effective October 1, 2025.

15-30-2362 and 15-30-2363 reserved.

15-30-2364. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 320, L. 2007; Sec. 15-30-194, MCA 2007; redes. 15-30-2364 by Sec. 1, Ch. 147, L. 2009.

15-30-2365. Repealed. Sec. 3, Ch. 399, L. 2019.

History: En. Sec. 2, Ch. 540, L. 2001; Sec. 15-30-130, MCA 2007; redes. 15-30-2365 by Sec. 1, Ch. 147, L. 2009.

15-30-2366. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 469, L. 1989; amd. Sec. 1, Ch. 670, L. 1991; amd. Sec. 47, Ch. 546, L. 1995; Sec. 15-30-128, MCA 2007; redes. 15-30-2366 by Sec. 1, Ch. 147, L. 2009.

15-30-2367. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 7, Ch. 606, L. 1991; amd. Sec. 161, Ch. 56, L. 2009; Sec. 15-30-129, MCA 2007; redes. 15-30-2367 by Sec. 1, Ch. 147, L. 2009.

15-30-2368. Repealed. Sec. 54, Ch. 151, L. 2017.

History: En. Sec. 11, Ch. 595, L. 2005; Sec. 15-30-185, MCA 2007; redes. 15-30-2368 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 227, L. 2011.

15-30-2369. Repealed. Secs. 6, 8(4), Ch. 361, L. 2007.

History: En. Sec. 1, Ch. 771, L. 1991; Sec. 15-30-188, MCA 2007; redes. 15-30-2369 by Sec. 1, Ch. 147, L. 2009.

15-30-2370. Repealed. Secs. 6, 8(4), Ch. 361, L. 2007.

History: En. Sec. 2, Ch. 771, L. 1991; amd. Sec. 1, Ch. 361, L. 2007; Sec. 15-30-189, MCA 2007; redes. 15-30-2370 by Sec. 1, Ch. 147, L. 2009.

15-30-2371. Repealed. Secs. 6, 8(4), Ch. 361, L. 2007.

History: En. Sec. 3, Ch. 771, L. 1991; Sec. 15-30-190, MCA 2007; redes. 15-30-2371 by Sec. 1, Ch. 147, L. 2009.

15-30-2372. Repealed. Secs. 6, 8(4), Ch. 361, L. 2007.

History: En. Sec. 4, Ch. 771, L. 1991; Sec. 15-30-191, MCA 2007; redes. 15-30-2372 by Sec. 1, Ch. 147, L. 2009.

15-30-2373. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 2, Ch. 706, L. 1989; amd. Sec. 3, Ch. 540, L. 2001; Sec. 15-30-186, MCA 2007; redes. 15-30-2373 by Sec. 1, Ch. 147, L. 2009.

15-30-2374 through 15-30-2379 reserved.

15-30-2380. *(Temporary)* **Credit for unlocking public lands program — definitions.** (1) A taxpayer is allowed a credit against the taxes imposed by Title 15, chapter 30 or 31, in the amount of $750 for each qualified access to public land that is provided. The maximum credit that a taxpayer may claim in a year under this section is $3,000.

(2) If the amount of the credit exceeds the taxpayer's liability under Title 15, chapter 30 or 31, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable income.

(3) If the property through which access is provided is owned by multiple taxpayers, the taxpayers may claim a proportionate share of the $750 credit based on their respective ownership interests in that property.

(4) If qualified access to the same parcel of public land is provided through separate properties owned by different taxpayers, the taxpayer for each property may claim a $750 credit.

(5) For purposes of this section:

(a) "public land" means:

(i) state land, as defined in 77-1-101; or

(ii) federal land managed by the U.S. forest service or the bureau of land management; and

(b) "qualified access to public land":

(i) means an access or corridor established through a taxpayer's property to a parcel of public land for recreational use and certified by the department of fish, wildlife, and parks pursuant to 87-1-294;

(ii) does not include a corridor established between two or more parcels of public land when the public land parcels are surrounded by private land that the landowner or landowners have not granted permission to cross and there is no other legal access. *(Terminates December 31, 2027—secs. 1, 2, Ch. 139, L. 2017.)*

History: En. Sec. 1, Ch. 346, L. 2013; amd. Sec. 1, Ch. 392, L. 2015.

15-30-2381. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 3, Ch. 375, L. 2007; Sec. 15-30-196, MCA 2007; redes. 15-30-2381 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 388, L. 2015.

15-30-2382 through 15-30-2385 reserved.

15-30-2386. Funding for administration of special revenue accounts. (1) The department shall charge any special revenue account that is funded by means of an income tax checkoff the actual and necessary cost to create the special revenue account and to place the checkoff on the income tax return.

(2) In addition to the charges in subsection (1), the department shall charge each special revenue account funded by means of an income tax checkoff the actual expenses necessary to administer the account. The department's charges may not exceed $3,000 for a tax year.

(3) All charges collected pursuant to subsections (1) and (2) must be deposited in the state general fund.

History: En. Secs. 1, 2, Ch. 581, L. 1993; amd. Sec. 8, Ch. 422, L. 1997; Sec. 15-30-153, MCA 2007; redes. 15-30-2386 by Sec. 1, Ch. 147, L. 2009.

15-30-2387. *(Temporary)* **Voluntary checkoff for nongame wildlife programs.** (1) Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the funding of nongame wildlife programs in Montana by marking the appropriate box on the state income tax return.

(2) The department shall include on each Montana state individual income tax return form a clear and conspicuous provision by which the taxpayer may indicate a contribution to nongame wildlife programs. The provision must be in substantially the following form:

Montana nongame wildlife funding. Check the appropriate blank if you wish to contribute, in addition to your existing tax liability, ___ $5, ___ $10, or ___ (specify an amount) to fund nongame wildlife programs in Montana. If a joint return, check the appropriate blank if your spouse wishes to contribute, in addition to your existing tax liability, ___ $5, ___ $10, or ___ (specify an amount) for the same purpose.

(3) Money received under this section, after the department has deducted the administrative charge provided for in 15-30-2386, must be deposited in the nongame wildlife account established by 87-5-121. *(Terminates on occurrence of contingency—secs. 1, 2, Ch. 321, L. 1999.)*

History: En. Sec. 3, Ch. 627, L. 1983; amd. Sec. 1, Ch. 436, L. 1985; amd. Sec. 3, Ch. 581, L. 1993; Sec. 15-30-150, MCA 2007; redes. 15-30-2387 by Sec. 1, Ch. 147, L. 2009.

Compiler's Comments

Contingent Termination: Section 12, Ch. 581, L. 1993, provided: "A voluntary income tax checkoff created in 15-30-150, 15-30-152, or 15-30-155 [now 15-30-2387, 15-30-2389, or 15-30-2390] terminates on January 1 of the first tax year following the 2 immediately preceding tax years in which the voluntary checkoff raises less than $20,000 in each of those 2 tax years."

Sections 1 and 2, Ch. 321, L. 1999, amended sec. 12, Ch. 581, L. 1993, and sec. 2, Ch. 12, L. 1995, respectively, by reducing from $20,000 to $10,000 the threshold amount that triggers termination of the tax checkoff in this section. Effective April 16, 1999.

15-30-2388. Agriculture literacy in Montana schools program account — administration. (1) There is an agriculture literacy in Montana schools program account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under 15-30-2389 must be deposited in the account.

(3) Money in the account must be used by the department of agriculture to provide funding for developing and presenting an educational program that will provide young people with a better understanding of the crucial role of agriculture in all aspects of society and of how Montana agriculture relates to the rest of the world. The educational program must be developed and presented through the joint efforts of the United States department of agriculture, educators at all levels, and representatives of state and national agricultural organizations.

History: En. Sec. 1, Ch. 634, L. 1985; Sec. 15-30-151, MCA 2007; redes. 15-30-2388 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 34, L. 2013.

15-30-2389. Voluntary checkoff for agriculture literacy in Montana schools program. (1) Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the funding of the agriculture literacy in Montana schools program by marking an appropriate box on the state income tax return.

(2) The department shall include on each Montana state individual income tax return form a clear and conspicuous provision by which the taxpayer may indicate a contribution to the agriculture literacy in Montana schools program. The contribution may be made from the amount to be refunded to the taxpayer or, if no refund is due, must be in addition to the amount of tax required to be paid. The provision must be in substantially the following form:

Check the appropriate blank if you wish to contribute ___ $5, ___ $10, ___ $20, or ___ (specify an amount) of your tax refund, or add such amount to your tax payment, to fund the agriculture literacy in Montana schools program. If a joint return, check the appropriate blank if your spouse wishes to designate ___ $5, ___ $10, ___ $20, or ___ (specify an amount) for the same purpose.

(3) Money received under this section must be deposited in the agriculture literacy in Montana schools program account established by 15-30-2388 after the department has deducted the amount necessary for the department to administer this section as provided in 15-30-2386.

History: En. Sec. 2, Ch. 634, L. 1985; amd. Sec. 4, Ch. 581, L. 1993; Sec. 15-30-152, MCA 2007; redes. 15-30-2389 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 34, L. 2013.

15-30-2390. *(Temporary)* **Voluntary checkoff for child abuse and neglect prevention program.** (1) Each individual taxpayer who is required to file an income tax return under this chapter and who is entitled to a refund may contribute to the child abuse and neglect prevention program provided for in 52-7-101, by marking the appropriate box on the state income tax return.

(2) Each Montana state individual income tax return form must contain a provision for indicating a contribution to the child abuse and neglect prevention program in substantially the following form:

Child abuse and neglect prevention program. Check this box if you wish to designate $5 ___, $10 ___, or more ___ (indicate amount) of your tax refund to help fund the child abuse and neglect prevention program in Montana. On a joint return, check the corresponding box for your spouse if your spouse wishes to contribute $5 ___, $10 ___, or more ___ (indicate amount) of the refund for the same purpose.

(3) Money received under this section must be deposited in the children's trust fund account, created under 52-7-102, after the department has deducted the amount necessary for the department to administer this section as provided in 15-30-2386. *(Terminates on occurrence of contingency—secs. 1, 2, Ch. 321, L. 1999.)*

History: En. Sec. 9, Ch. 610, L. 1985; amd. Sec. 5, Ch. 581, L. 1993; Sec. 15-30-155, MCA 2007; redes. 15-30-2390 by Sec. 1, Ch. 147, L. 2009.

Compiler's Comments

Contingent Termination: Section 12, Ch. 581, L. 1993, provided: "A voluntary income tax checkoff created in 15-30-150, 15-30-152, or 15-30-155 [now 15-30-2387, 15-30-2389, or 15-30-2390] terminates on January 1 of the first tax year following the 2 immediately preceding tax years in which the voluntary checkoff raises less than $20,000 in each of those 2 tax years."

Sections 1 and 2, Ch. 321, L. 1999, amended sec. 12, Ch. 581, L. 1993, and sec. 2, Ch. 12, L. 1995, respectively, by reducing from $20,000 to $10,000 the threshold amount that triggers termination of the tax checkoff in this section. Effective April 16, 1999.

15-30-2391 reserved.

15-30-2392. Voluntary checkoff for Montana military relief fund. (1) Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the Montana military family relief fund established in 10-1-1302 by marking the appropriate box on the state income tax return.

(2) The department shall include on each Montana state individual income tax return form a clear and conspicuous provision by which the taxpayer may indicate a contribution to the Montana military family relief fund. The contribution may be made from the amount to be refunded to the taxpayer or, if no refund is due, must be in addition to the amount of tax required to be paid. The provision must be in substantially the following form:

Montana military family relief fund. Check the appropriate blank if you wish to contribute, in addition to your existing tax liability, ___ $5, ___ $10, or ___ (specify an amount) to support the Montana military family relief fund. If a joint return, check the appropriate blank if your spouse wishes to contribute, in addition to your existing tax liability, ___ $5, ___ $10, or ___ (specify an amount) for the same purpose.

(3) Money received under this section must be deposited into the account established in 10-1-1303 after the department has deducted the administrative charge provided for in 15-30-2386.

History: En. Sec. 11, Ch. 311, L. 2007; Sec. 15-30-193, MCA 2007; redes. 15-30-2392 by Sec. 1, Ch. 147, L. 2009.

15-30-2393. Election to deposit refund to education savings or ABLE account. Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may elect to directly deposit a refund from the return to a Montana family education savings program account provided for in Title 15, chapter 62, part 1, a Montana achieving a better life experience program account provided for in Title 53, chapter 25, part 1, or an account for similar programs established and maintained by another state. In order to make the election the taxpayer must be eligible to claim an exclusion from Montana taxable income for the contribution as provided in 15-30-2120. The department may prescribe additional forms and require the taxpayer to provide sufficient information for the proper administration of the deposit requirement.

History: En. Sec. 1, Ch. 115, L. 2019; amd. Sec. 17, Ch. 503, L. 2021.

Part 24 reserved

Part 25
Estimated Tax and Withholding

15-30-2501. Definitions. When used in 15-30-2501 through 15-30-2509, the following definitions apply:

(1) "Agricultural labor" means all services performed on a farm or ranch in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) (a) "Employee" means:

(i) an individual who performs services for another individual or an organization having the right to control the employee as to the services to be performed and as to the manner of performance;

(ii) an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision of the United States or Montana or any agency or instrumentality of the United States, the state of Montana, or a political subdivision of the United States or Montana;

(iii) an officer of a corporation;

(iv) all classes, grades, or types of employees, including minors and aliens, superintendents, managers, and other supervisory personnel.

(b) The term does not include a sole proprietor performing services for the sole proprietorship.

(3) "Employer" means:

(a) the person for whom an individual performs or performed any service, of whatever nature, as an employee of the person or, if the person for whom the individual performs or performed the services does not have control of the payment of wages for the services, the person having control of the payment of wages;

(b) any individual or organization that has or had in its employ one or more individuals performing services for it within this state, including:

(i) a state government and any of its political subdivisions or instrumentalities;

(ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability company, or domestic or foreign corporation;

(iii) a receiver, a trustee, including a trustee in bankruptcy, or the trustee's successor; or

(iv) a legal representative of a deceased person; or

(c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance purposes, or under Title 39, chapter 71, for workers' compensation purposes.

(4) "Lookback period" means the 12-month period ending the preceding June 30.

(5) "Sole proprietor" means an individual doing business in a noncorporate form and includes the member of a single-member limited liability company that is a disregarded entity if the member is an individual.

(6) (a) Except as provided in subsection (6)(b), "wages" has the meaning provided in section 3401 of the Internal Revenue Code, 26 U.S.C. 3401.

(b) The term does not include:

(i) any amount paid a sole proprietor; or

(ii) any amount paid for agricultural labor.

History: En. Sec. 1, Ch. 246, L. 1955; amd. Sec. 185, Ch. 516, L. 1973; R.C.M. 1947, 84-4942(part); amd. Sec. 20, Ch. 581, L. 1979; amd. Sec. 1, Ch. 128, L. 1983; amd. Sec. 2, Ch. 634, L. 1983; amd. Sec. 3, Ch. 706, L. 1989; amd. Sec. 1, Ch. 254, L. 1995; amd. Sec. 4, Ch. 479, L. 1995; amd. Sec. 1, Ch. 529, L. 1995; amd. Sec. 4, Ch. 572, L. 1995; amd. Sec. 70, Ch. 42, L. 1997; amd. Sec. 10, Ch. 491, L. 1997; amd. Sec. 27, Ch. 114, L. 2003; amd. Sec. 2, Ch. 67, L. 2005; Sec. 15-30-201, MCA 2007; redes. 15-30-2501 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 36, L. 2015; amd. Sec. 18, Ch. 503, L. 2021.

15-30-2502. Withholding of tax from wages. (1) Except as provided in 15-30-2513, each employer making payment of wages shall withhold from wages a tax determined in accordance with the withholding tax tables prepared and issued by the department.

(2) An employer who maintains two or more separate establishments within this state is considered to be a single employer for the purposes of this part.

(3) A disregarded entity and its owner are considered to be a single employer for the purposes of this part.

History: En. Sec. 2, Ch. 246, L. 1955; amd. Sec. 3, Ch. 227, L. 1957; amd. Sec. 186, Ch. 516, L. 1973; R.C.M. 1947, 84-4943; amd. Sec. 2, Ch. 128, L. 1983; amd. Sec. 2, Ch. 254, L. 1995; amd. Sec. 71, Ch. 42, L. 1997; amd. Sec. 11, Ch. 491, L. 1997; amd. Sec. 3, Ch. 67, L. 2005; Sec. 15-30-202, MCA 2007; redes. 15-30-2502 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 4, Ch. 563, L. 2023.

Cross-References

Return required and withholding credited against taxes due on return, 15-30-2602.

Employer to provide employee with statement of deductions, 39-3-101.

15-30-2503. Employer liable for withholding taxes and statements. (1) Except as provided in 15-30-2513 and subsection (7) of this section, each employer is liable for the payments required by 15-30-2504, the amounts required to be deducted and withheld under this part, and the annual statements required by 15-30-2506 and 15-30-2507. The payments required by 15-30-2504 and the amounts required to be deducted and withheld, plus interest due, are a tax. With respect to the tax, the employer is the taxpayer.

(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the state the amounts withheld from the corporation's employees and who fails to pay the withholdings is liable to the state for the amounts withheld and the penalty and interest due on the amounts.

(3) (a) Each officer of the corporation is individually liable along with the corporation for filing statements to the extent that the officer has access to the requisite records and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part.

(b) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (3)(a) to establish individual liability and may consider any other available information.

(4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the corporation.

(5) For the purpose of determining liability for the filing of statements and the remittance of taxes, penalties, and interest owed under this part:

(a) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(b) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(c) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(d) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(6) If the employer fails to deduct and withhold the amounts specified in 15-30-2502 and the tax against which the deducted and withheld amounts would have been credited is paid, the amounts required to be deducted and withheld may not be collected from the employer.

(7) (a) Subject to subsection (7)(b), each officer or director of a small nonprofit corporation is exempt from the provisions of this section imposing individual liability.

(b) The exemption from individual liability in subsection (7)(a) does not apply if:

(i) the officer or director receives monetary compensation or wages for services to the small nonprofit corporation. For the purposes of this subsection (7)(b)(i), the term "compensation" does not include the reasonable reimbursement of expenses.

(ii) the small nonprofit corporation is out of compliance with the provisions this section for more than 12 months with outstanding unpaid taxes, penalties, and interest; or

(iii) the officer or director is involved in fraud, embezzlement, or intentional misconduct.

(8) As used in this section, the term "small nonprofit corporation" has the same meaning as nonprofit corporation provided in 27-1-732, except that the term does not include a corporation or organization that employs more than 10 paid employees at any given time during the calendar year.

History: En. Sec. 4, Ch. 246, L. 1955; R.C.M. 1947, 84-4945; amd. Sec; 1, Ch. 681, L. 1979; amd. Sec. 1, Ch. 33, L. 1991; amd. Sec. 12, Ch. 491, L. 1997; amd. Sec. 4, Ch. 67, L. 2005; Sec. 15-30-203, MCA 2007; redes. 15-30-2503 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 5, Ch. 563, L. 2023; amd. Sec. 1, Ch. 468, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 468, L. 2025. Amendment effective October 1, 2025.

15-30-2504. Schedules for remitting income withholding taxes — records. (1) Subject to the due date provision in 15-30-2604(1)(b) and the nonresident exclusion in 15-30-2513, an employer shall remit the taxes withheld from employee wages as follows:

(a) An employer whose total liability for state income tax withholding during the preceding lookback period was $12,000 or more shall remit on an "accelerated schedule", which is the same as the employer's federal due dates for federal tax deposits.

(b) An employer whose total liability for state income tax withholding during the preceding lookback period was less than $12,000 but more than $1,199 shall remit on a "monthly schedule" for which the remittance due date is on or before the 15th day of the month following the payment of wages.

(c) An employer whose total liability for state income tax withholding during the preceding lookback period was less than $1,200 shall remit on an "annual schedule" for which the remittance due date is on or before January 31 of the year following payment of wages.

(d) An employer who has no withholding to remit for a remittance period shall, on or before the due date of the applicable remittance schedule, submit a payment coupon showing that a zero amount is being remitted.

(2) An employer who has not complied with the requirements of this section shall, upon written notice from the department, remit on the monthly schedule described in subsection (1)(b).

(3) On or before November 1 of each year, the department shall notify the employers subject to the provisions of this section of the employers' remittance schedules for the following calendar year based upon the department's review of the preceding lookback period.

(4) A new employer or an employer with no filing history is subject to the monthly remittance schedule in subsection (1)(b) until the department is able to determine the employer's proper remittance schedule by a review of the employer's first complete lookback period.

(5) An employer may elect to remit payments on a more frequent basis than is required by subsection (1).

(6) An employer may use alternative remittance methods in conjunction with the department's electronic remittance program in accordance with department rules.

(7) If the department has reason to believe that collection of the amount of any tax withheld is in jeopardy, it may proceed as provided for under 15-1-703.

(8) Each employer shall keep accurate payroll records containing the information that the department may prescribe by rule. Those records must be open to inspection and audit and may be copied by the department or its authorized representative at any reasonable time and as often as may be necessary. An employer who maintains its records outside Montana shall furnish copies of those records to the department at the employer's expense.

History: En. Sec. 5, Ch. 246, L. 1955; amd. Sec. 1, Ch. 212, L. 1967; amd. Sec. 187, Ch. 516, L. 1973; R.C.M. 1947, 84-4946; amd. Sec. 1, Ch. 28, Sp. L. June 1986; amd. Sec. 2, Ch. 289, L. 1989; amd. Sec. 5, Ch. 572, L. 1995; amd. Sec. 13, Ch. 491, L. 1997; amd. Sec. 1, Ch. 184, L. 1999; amd. Sec. 5, Ch. 67, L. 2005; Sec. 15-30-204, MCA 2007; redes. 15-30-2504 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 269, L. 2011; amd. Sec. 1, Ch. 21, L. 2017; amd. Sec. 6, Ch. 563, L. 2023.

15-30-2505. Amount withheld considered as tax collected. All amounts deducted and withheld must be considered as a tax collected under the provisions of 15-30-2501 through 15-30-2509, and an employee does not have any right of action against the employer in respect to any money deducted and withheld from the employee's wages and paid to the state in compliance or intended compliance with 15-30-2501 through 15-30-2509.

History: En. Sec. 6, Ch. 246, L. 1955; R.C.M. 1947, 84-4947; R.C.M. 1947, 84-4947; amd. Sec. 168, Ch. 56, L. 2009; Sec. 15-30-205, MCA 2007; redes. 15-30-2505 by Sec. 1, Ch. 147, L. 2009.

15-30-2506. Annual withholding statement. Every employer shall, prior to January 31 in each year, furnish to each employee a written statement showing the total wages paid by the employer to the employee during the preceding calendar year and showing the amount of the federal income tax deducted and withheld from the wages and the amount of the tax deducted and withheld under the provisions of 15-30-2501 through 15-30-2509. The statement must contain additional information and must be in the form that the department prescribes, and a duplicate of the statement must be filed by the employee with the employee's state income tax return.

History: En. Sec. 7, Ch. 246, L. 1955; amd. Sec. 188, Ch. 516, L. 1973; R.C.M. 1947, 84-4948; amd. Sec. 3, Ch. 289, L. 1989; amd. Sec. 169, Ch. 56, L. 2009; Sec. 15-30-206, MCA 2007; redes. 15-30-2506 by Sec. 1, Ch. 147, L. 2009.

15-30-2507. Annual statement by employer. (1) Every employer shall, on or before January 31 in each year, file with the department a wage and tax statement for each employee in the form and summarizing information as the department requires, including the total wages paid to the employee during the preceding calendar year or any part of the calendar year and showing the total amount of the federal income tax deducted and withheld from the wages and the total amount of the tax deducted and withheld from the wages under the provisions of 15-30-2501 through 15-30-2509.

(2) The annual statement filed by an employer with respect to the wage payments reported constitutes full compliance with the requirements of 15-30-2616 relating to the duties of information agents, and additional information return is not required with respect to the wage payments.

History: En. Sec. 9, Ch. 246, L. 1955; amd. Sec. 189, Ch. 516, L. 1973; R.C.M. 1947, 84-4950; amd. Sec. 1, Ch. 36, L. 1983; amd. Sec. 4, Ch. 289, L. 1989; amd. Sec. 7, Ch. 637, L. 1993; amd. Sec. 14, Ch. 491, L. 1997; amd. Sec. 2, Ch. 184, L. 1999; Sec. 15-30-207, MCA 2007; redes. 15-30-2507 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 21, L. 2017.

15-30-2508. Withheld taxes held in trust for state. Every employer who deducts and withholds any amounts under the provisions of 15-30-2501 through 15-30-2509 shall hold the amounts in trust for the state of Montana.

History: En. Sec. 10, Ch. 246, L. 1955; amd. Sec. 190, Ch. 516, L. 1973; R.C.M. 1947, 84-4951; amd. Sec. 10, Ch. 439, L. 1981; amd. Sec. 1, Ch. 34, L. 1985; amd. Sec. 1, Ch. 489, L. 1987; amd. Sec. 15, Ch. 491, L. 1997; Sec. 15-30-208, MCA 2007; redes. 15-30-2508 by Sec. 1, Ch. 147, L. 2009.

15-30-2509. Violations by employer — penalties, interest, remedies, and waivers — rulemaking. (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all delinquent withholding taxes.

(2) In addition to the penalties imposed by 15-1-216, the failure of an employer to furnish a wage and tax statement, as required by 15-30-2507(1), subjects the employer to a penalty of $50 for each failure, with a minimum of $250.

(a) If the department has not previously imposed a penalty authorized by this section on the employer, the penalty must be waived if the wage and tax statement is furnished within 30 days of the department's notice that the statement is delinquent.

(b) If the department has previously imposed a penalty authorized by this section on the employer, the penalty may only be waived if the employer:

(i) submits the wage and tax statement within 15 calendar days of the due date of the wage and tax statement; or

(ii) demonstrates there is reasonable cause for the failure to furnish the required wage and tax statement.

(c) Penalties imposed by the department for failing to timely file a wage and tax statement occurring before May 22, 2023, are not relevant when making a determination under subsections (2)(a) and (2)(b).

(d) The department is authorized to adopt rules to administer and enforce the provisions of this section.

(3) All remedies available to the state for the administration, enforcement, and collection of income taxes are available and apply to the tax required to be deducted and withheld under the provisions of 15-30-2501 through 15-30-2508 unless otherwise specifically provided for in this part.

History: (1)En. Sec. 13, Ch. 246, L. 1955; Sec. 84-4954, R.C.M. 1947; (2)En. Sec. 14, Ch. 246, L. 1955; amd. Sec. 191, Ch. 516, L. 1973; Sec; 84-4955, R.C.M. 1947; R.C.M. 1947, 84-4954, 84-4955(part); amd. Sec. 16, Ch. 491, L. 1997; amd. Sec. 8, Ch. 427, L. 1999; amd. Sec. 3, Ch. 108, L. 2001; amd. Sec. 1, Ch. 95, L. 2003; amd. Sec. 6, Ch. 67, L. 2005; Sec. 15-30-209, MCA 2007; redes. 15-30-2509 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 753, L. 2023.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Administration and collection of income taxes, Title 15, ch. 30, part 26.

15-30-2510. Remitting withholding taxes electronically — employer option — timely remittance. (1) Subject to subsection (2), an employer may remit and file state income tax withholding electronically in any format established and approved by the department.

(2) An employer shall obtain the department's prior approval before the employer may remit withholding taxes by electronic funds transfer.

(3) If an employer remits withholding taxes electronically, the remittance is considered timely if made within 5 days after the due date of the payment.

History: En. Sec. 1, Ch. 572, L. 1995; amd. Sec. 3, Ch. 184, L. 1999; amd. Sec. 7, Ch. 67, L. 2005; Sec. 15-30-210, MCA 2007; redes. 15-30-2510 by Sec. 1, Ch. 147, L. 2009.

15-30-2511. Voluntary state withholding from federal annuity — agreement with federal government. (1) The director of revenue shall enter into an agreement with the federal office of personnel management to allow voluntary state tax withholding from federal annuity payments as provided in 5 U.S.C. 8345.

(2) The department of revenue may adopt administrative rules necessary to implement the federal agreement entered into under subsection (1) and to comply with federal laws and regulations for voluntary withholding from federal annuity payments.

History: En. Sec. 1, Ch. 243, L. 1993; Sec. 15-30-215, MCA 2007; redes. 15-30-2511 by Sec. 1, Ch. 147, L. 2009.

15-30-2512. Estimated tax — payment — exceptions — interest. (1) (a) Each individual subject to tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax payments, at least:

(i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or

(ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax year was a period of 12 months and if the individual filed a return for the tax year.

(b) Payment of estimated taxes under this section is not required if:

(i) the combined tax liability of employer withholding and estimated tax for the current year is less than $500 after reductions for credits and withholding;

(ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12 months, and if the individual was a citizen or resident of the United States throughout that tax year;

(iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that the department determines to constitute good cause; or

(iv) the individual retired in the tax year after having attained the age of 62 or if the individual became disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year following the tax year in which the individual retired or became disabled.

(2) Estimated taxes must be paid in four installments according to one of the following schedules:

(a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on January 1, estimated tax payments are due on the following dates:

Installment	Date
First	April 15
Second	June 15
Third	September 15
Fourth	January 15 of the following tax year

(b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on a date other than January 1, estimated tax payments are due on the following dates:

Installment	Date
First	15th day of the 4th month following the beginning of the tax year
Second	15th day of the 6th month following the beginning of the tax year
Third	15th day of the 9th month following the beginning of the tax year
Fourth	15th day of the month following the close of the tax year

(3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding installment must be proportionally changed so that the balance of the required annual payment is paid in equal installments over the remaining period of time.

(b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required. For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments, respectively. For estimated taxes required to be paid beginning with the third installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

(4) (a) If for any required installment the taxpayer determines that the installment payment is less than the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income installment.

(b) For any required installment, the annualized income installment is the applicable percentage described in subsection (4)(c) applied to the tax computed on the basis of annualized Montana taxable income in the tax year for the months ending before the due date for the installment less the total amount of any prior required installments for the tax year.

(c) For the purposes of this subsection (4), the applicable percentage is determined according to the following schedule:

Required Installment	Applicable Percentage
First	22.5%
Second	45%
Third	67.5%
Fourth	90%

(d) A reduction in a required installment resulting from the application of an annualized income installment must be recaptured by increasing the amount of the next required installment, determined under subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount of the reduction until the amount has been recaptured.

(5) (a) Subject to subsection (5)(e), if an estimated tax, an employer withholding tax, or a combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this chapter interest on the amount of the underpayment as provided in 15-1-216. The interest is computed on the amount of the underpayment, as determined in subsection (5)(b), for the period from the time the payment was due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made, whichever is earlier.

(b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the underpayment is the required installment amount less the installment amount paid, if any, on or before the due date for the installment.

(c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment must be credited against unpaid required installments in the order in which those installments are required to be paid.

(d) Interest may not be charged with respect to any underpayment of the fourth installment of estimated taxes if:

(i) the taxpayer pays in full the amount computed on the return as payable; and

(ii) the taxpayer files a return on or before the last day of the month following the close of the tax year referred to in subsection (2)(a) or (2)(b).

(e) Interest on the underpayment of estimated tax may not be assessed against a taxpayer if the tax paid by the taxpayer from employer withholding and estimated tax payments satisfies the requirements of subsection (1)(a)(i) or (1)(a)(ii) and the taxpayer has paid approximately equal quarterly installments of estimated taxes.

(6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66⅔% of the taxpayer's gross income, determined for federal income tax purposes, from farming or ranching operations, or both.

(7) The department shall promulgate rules governing reasonable extensions of time for paying the estimated tax. An extension may not be for more than 6 months.

(8) (a) Notwithstanding 15-1-206(2), the department may, in its discretion, waive the interest required to be added under subsection (5), for underpaid estimated taxes attributable to the 2024 tax year, if the taxpayer:

(i) timely files a Montana income tax return for the 2024 income tax year, as provided in 15-30-2604; and

(ii) when filing the return as provided in subsection (8)(a)(i), pays to the department any balance of income tax remaining unpaid.

(b) The waiver authority provided for under this subsection (8) terminates January 1, 2026.

History: En. 84-4939 by Sec. 12, Ch. 260, L. 1955; amd. Sec. 183, Ch; 516, L. 1973; amd. Sec. 1, Ch. 374, L. 1977; R.C.M. 1947, 84-4939(part); amd. Sec. 1, Ch. 17, Sp. L. January 1992; amd. Sec. 9, Ch. 427, L. 1999; amd. Sec. 10, Ch. 143, L. 2001; amd. Sec. 8, Ch. 594, L. 2005; Sec. 15-30-241, MCA 2007; redes. 15-30-2512 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 269, L. 2011; amd. Sec. 6, Ch. 308, L. 2015; amd. Sec. 19, Ch. 503, L. 2021; amd. Sec. 2, Ch. 738, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 738, L. 2025. Amendment effective June 30, 2025.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Return required and estimated tax credited against taxes due, 15-30-2602.

15-30-2513. Withholding from compensation — exception. (1) No amount is required to be deducted or retained from compensation paid to a nonresident for employment duties performed in this state if the compensation is excluded from Montana source income pursuant to 15-30-2106, without regard to 15-30-2106(1)(a). The number of days a nonresident employee is present in this state for purposes of 15-30-2106(1)(b) includes all days the nonresident employee is present and performing employment duties in this state on behalf of the employer or any subsidiary, division, agent, or contractor of the employer.

(2) An employer that has erroneously applied the exception provided by this section solely as a result of miscalculating the number of days a nonresident employee is present in this state to perform employment duties is not subject to penalties imposed under 15-30-2503 and 15-30-2509 if:

(a) the employer relied on a regularly maintained time and attendance system that:

(i) requires the employee to record, on a contemporaneous basis, the employee's work location each day the employee is present in a state other than:

(A) the state of residence; or

(B) where services are considered performed for purposes of unemployment insurance benefits, as provided in Title 39, chapter 51; and

(ii) is used by the employer to allocate the employee's wages between all taxing jurisdictions where the employee performs duties;

(b) the employer does not maintain a time and attendance system described in subsection (2)(a) and relied on employee travel records that the employer requires the employee to maintain and record on a regular and contemporaneous basis; or

(c) the employer does not maintain a time and attendance system described in subsection (2)(a), or require the maintenance of employee records described in subsection (2)(b), and relied on travel expense reimbursement records that the employer requires the employee to submit on a regular and contemporaneous basis.

(3) This section establishes an exception to withholding and deduction requirements and has no application to the imposition of this state's jurisdiction to impose a tax under this chapter or any other tax on any taxpayer.

History: En. Sec. 2, Ch. 563, L. 2023.

15-30-2514 through 15-30-2520 reserved.

15-30-2521. Policy and purpose. (1) It is the policy and intent of the legislature that lottery proceeds received by a person who redeems a ticket or chance to win a prize on a ticket or chance purchased in Montana under the provisions of Title 23, chapter 7, is Montana source income, notwithstanding the residence of the person or entity that redeems the ticket. This policy statement affirms that the legislature has always considered lottery proceeds to be Montana source income.

(2) The purpose of 15-30-2522 is to ensure that lottery proceeds that are Montana source income are subject to the withholding tax under the individual income tax laws of the state.

History: En. Sec. 1, Ch. 488, L. 1993; Sec. 15-30-246, MCA 2007; redes. 15-30-2521 by Sec. 1, Ch. 147, L. 2009.

15-30-2522. Withholding of lottery winnings. (1) When making any payment of winnings that are subject to withholding, the state lottery and sports wagering commission, created under Title 23, chapter 7, part 2, shall deduct and withhold from the payment a tax in an amount equal to the highest marginal rate tax in effect under 15-30-2103.

(2) For the purposes of this section, the phrase "winnings that are subject to withholding" means the proceeds in excess of $5,000 won from a lottery game operated pursuant to Title 23, chapter 7.

(3) Every person who receives a payment of winnings that are subject to withholding shall furnish the state lottery and sports wagering commission with a signed statement containing the name, address, and taxpayer identification number of the recipient and of every person entitled to any portion of the payment. The signed statement must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing.

History: En. Sec. 2, Ch. 488, L. 1993; Sec. 15-30-247, MCA 2007; redes. 15-30-2522 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 340, L. 2011; amd. Sec. 4, Ch. 701, L. 2023.

15-30-2523. Determination of employer status. A final determination by either the department of labor and industry or the workers' compensation court that an employer-employee relationship existed between the taxpayer and certain individuals subjecting the taxpayer to the requirements of this chapter is not subject to any further administrative or judicial challenge in any proceeding before or with the department of revenue concerning a determination of the proper amount of state income tax withholding.

History: En. Sec. 4, Ch. 529, L. 1995; amd. Sec. 4, Ch. 184, L. 1999; amd. Sec. 1, Ch. 442, L. 1999; amd. Sec. 8, Ch. 67, L. 2005; Sec. 15-30-248, MCA 2007; redes. 15-30-2523 by Sec. 1, Ch. 147, L. 2009.

15-30-2524 through 15-30-2530 reserved.

15-30-2531. Credits and refunds — period of limitations. (1) If the department determines by examination of an employer's account, or upon claim filed by an employer, that the employer has overpaid the amount of tax, penalty, or interest, the amount of the overpayment may be refunded to the employer or applied to current or future obligations of any tax, penalty, or interest for any tax contained in this title at the discretion of the taxpayer.

(2) A credit or refund may be allowed only if the claim is filed or the determination is made within 3 years of the due date prescribed for filing a report or 1 year from the date of the notification of the overpayment by the department.

(3) The department shall notify the employer of the overpayment and the credit or refund options available to the employer. A credit must be applied to the employer account unless directed otherwise by the employer.

(4) If a claim is disallowed, the department shall notify the employer. The decision disallowing the claim is subject to review as provided in 15-1-211.

(5) Interest is:

(a) allowed on an overpayment at the same rate as charged for late tax payments under this part;

(b) payable from the due date of the payment or the date overpayment was verified, whichever is later;

(c) not payable if the overpayment is applied to current or future obligations with the department.

(6) Interest is not allowed if the overpayment is refunded within 45 days from the date the employer directs the department to refund the overpayment.

(7) If additional information is required to verify the amount of the overpayment, the 45-day period in subsection (6) does not begin until the information is provided.

History: En. Sec. 4, Ch. 491, L. 1997; Sec. 15-30-255, MCA 2007; redes. 15-30-2531 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 7, Ch. 308, L. 2015.

15-30-2532 through 15-30-2535 reserved.

15-30-2536. Short title. Sections 15-30-2536 through 15-30-2547 may be cited as the "Mineral Royalty Backup Withholding Act".

History: En. Sec. 1, Ch. 468, L. 2007; Sec. 15-30-261, MCA 2007; redes. 15-30-2536 by Sec. 1, Ch. 147, L. 2009.

15-30-2537. Definitions. As used in 15-30-2536 through 15-30-2547, the following definitions apply:

(1) "Mineral" has the meaning provided in 15-38-103.

(2) "Publicly traded partnership" means a publicly traded partnership, as defined in section 7704 of the Internal Revenue Code, 26 U.S.C. 7704, that is not treated as a corporation.

(3) "Remitter" means an individual, entity, or trust that makes royalty payments to royalty owners.

(4) "Royalty owner" means a person or entity entitled to receive periodic payments for a nonworking interest in the production of oil or gas or in the severance of other minerals from the mineral estate.

History: En. Sec. 2, Ch. 468, L. 2007; Sec. 15-30-262, MCA 2007; redes. 15-30-2537 by Sec. 1, Ch. 147, L. 2009.

15-30-2538. Withholding required on mineral royalty payments. Except as provided in 15-30-2539, each remitter shall withhold from each royalty payment made to a royalty owner

an amount equal to the highest marginal tax rate in effect under 15-30-2103 of the net amount payable to the royalty owner.

History: En. Sec. 3, Ch. 468, L. 2007; Sec. 15-30-263, MCA 2007; redes. 15-30-2538 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 4, Ch. 545, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 545, L. 2025. Amendment effective May 8, 2025.

Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

15-30-2539. Withholding — no application under certain conditions. (1) The provisions of 15-30-2536 through 15-30-2547 do not apply to royalty payments made to a royalty owner if the royalty owner is:

(a) the United States or an agency of the federal government, this state or a political subdivision of this state, or another state or a political subdivision of another state;

(b) a federally recognized Indian tribe with respect to on-reservation oil and gas production pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938, 25 U.S.C. 396a through 396g;

(c) the United States as trustee for individual Indians;

(d) a publicly traded partnership;

(e) an organization that is exempt from taxation under 15-31-102; or

(f) the same person or entity as the remitter.

(2) (a) The provisions of 15-30-2536 through 15-30-2547 do not apply to a remitter that produces less than 100,000 barrels of oil and less than 500 million cubic feet of gas annually. The department shall determine a remitter's annual production of oil and gas based upon a 3-year rolling average of the remitter's annual production as reported by the remitter to the Montana board of oil and gas conservation.

(b) Each producer that is exempted from withholding under subsection (2)(a) shall make an annual return to report royalty payments that exceed the dollar amounts in subsection (3). The return must be made under rules adopted by the department and be as nearly identical as possible to federal rules for internal revenue service form 1099 under section 6041, et seq., of the Internal Revenue Code, 26 U.S.C. 6041, et seq.

(c) Each year, a publicly traded partnership that is exempt from withholding under subsection (1)(d) shall transmit to the department, in an electronic format approved by the department, each partner's U.S. department of the treasury schedule K-1, form 1065 or 1065-B, as applicable, filed electronically for the year with the internal revenue service.

(d) A royalty owner that is a publicly traded partnership or an organization that is exempt from taxation under 15-31-102 shall report to the remitter and department under oath, on a form prescribed by the department, all information necessary to establish that the remitter is not required under 15-30-2538 to withhold royalty payments made to the partnership or organization.

(3) If the royalty payment made to a royalty owner subject to withholding under the provisions of 15-30-2536 through 15-30-2547 is less than $166 for the current withholding period or is less than $2,000 if the payment is annualized, then the department may grant a remitter's request to forego withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if applicable, the royalty payments for the annual period.

(4) The department may, by rule, establish minimum royalty amounts subject to withholding under the provisions of 15-30-2536 through 15-30-2547, other than for oil and gas production, if the department determines that the withholding against the minimal amount of royalties is inefficient.

History: En. Sec. 4, Ch. 468, L. 2007; Sec. 15-30-264, MCA 2007; redes. 15-30-2539 by Sec. 1, Ch. 147, L. 2009.

15-30-2540. Remitter liable for withholding taxes and statements — liability mitigation — sufficiency of mailing address. (1) Each remitter is liable for the payment required by 15-30-2541, the amount required to be deducted and withheld under 15-30-2536 through 15-30-2547, and the annual statements required by 15-30-2543 and 15-30-2544. The

payments required by 15-30-2541 and the amounts required to be deducted and withheld, plus penalty and interest due, are a tax. With respect to the tax, the remitter is the taxpayer.

(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the state the amounts withheld from mineral royalty payments and who fails to pay the withholdings is liable to the state for the amounts withheld and the penalty and interest due on the amounts.

(3) (a) Subject to subsections (3)(b) and (6), each officer of the corporation is individually liable, along with the corporation, for filing statements, to the extent that the officer has access to the requisite records, and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by 15-30-2536 through 15-30-2547 or to pay taxes due as required by 15-30-2536 through 15-30-2547.

(b) If a corporate remitter violates the provisions of 15-30-2536 through 15-30-2547, the department shall first apply the provisions of 15-30-2546 against the corporation. If the corporation fails to remedy the violation, then the department shall apply the provisions of 15-30-2546 against each responsible corporate officer as determined in subsections (3)(a) and (3)(c) of this section.

(c) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (3)(a) to establish individual liability and may consider any other available information.

(4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the corporation.

(5) Subject to subsection (6), for the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under 15-30-2536 through 15-30-2547:

(a) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(b) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(c) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(d) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(6) The liability of an individual described in subsection (3) or (5) for taxes, penalties, and interest is released if and to the extent that the amount required to be deducted and withheld under 15-30-2536 through 15-30-2547 is deposited in a separate account that is:

(a) established in a bank, as defined in 32-1-102, located in Montana;

(b) designated as a special fund in trust for the state; and

(c) payable to the department.

(7) If the remitter fails to deduct and withhold the amounts specified in 15-30-2538 and the tax, against which the deducted and withheld amounts would have been credited, is paid, the amounts required to be deducted and withheld may not be collected from the remitter.

History: En. Sec. 5, Ch. 468, L. 2007; Sec. 15-30-265, MCA 2007; redes. 15-30-2540 by Sec. 1, Ch. 147, L. 2009.

15-30-2541. Royalty withholding tax remittance schedule — alternative schedules and methods — records. (1) Except as provided in subsection (2), each remitter is required to file a quarterly return, on a form prescribed by the department, and remit to the department the amount of tax withheld on royalty payments according to the following schedule:

(a) for royalty payments made during January, February, and March of each calendar year, the amount withheld is due on or before April 30 of the year;

(b) for royalty payments made during April, May, and June of each calendar year, the amount withheld is due on or before July 31 of the year;

(c) for royalty payments made during July, August, and September of each calendar year, the amount withheld is due on or before October 31 of the year; and

(d) for royalty payments made during October, November, and December of each calendar year, the amount withheld is due on or before January 31 of the following year.

(2) A remitter may request an alternative remittance schedule other than the schedule required by subsection (1). The department may consider situations, such as administrative and taxpayer convenience and frequency of royalty payments, in determining whether to approve an alternative remittance schedule.

(3) A remitter may elect to remit and file mineral backup withholding electronically in any format established and approved by the department if the remitter obtains prior approval from the department before remitting the tax by electronic funds transfer.

(4) If a remitter remits withholding taxes electronically, the remittance is considered timely if made within 5 days after the due date of the payment.

(5) If the department has reason to believe that collection of the amount of any tax withheld is in jeopardy, it may proceed as provided under 15-1-703.

(6) Each remitter shall keep accurate royalty payment and withholding records containing the information that the department may prescribe by rule. Those records must be open to inspection and audit and may be copied by the department or its authorized representative at any reasonable time and as often as may be necessary. A remitter that maintains its records outside of Montana shall furnish copies of those records to the department at the remitter's expense.

History: En. Sec. 6, Ch. 468, L. 2007; Sec. 15-30-266, MCA 2007; redes. 15-30-2541 by Sec. 1, Ch. 147, L. 2009.

15-30-2542. Amount of royalty payment withheld considered taxes collected. The amounts deducted and withheld from royalty payments are considered taxes collected under the provisions of 15-30-2536 through 15-30-2547. A royalty owner does not have a right of action against the remitter for any amount deducted and withheld from the royalty owner's royalty and paid to the state in compliance or intended compliance with 15-30-2536 through 15-30-2547. The amounts deducted and withheld and paid to the state in compliance or intended compliance with 15-30-2536 through 15-30-2547 are not subject to the provisions of 82-10-103.

History: En. Sec. 7, Ch. 468, L. 2007; Sec. 15-30-267, MCA 2007; redes. 15-30-2542 by Sec. 1, Ch. 147, L. 2009.

15-30-2543. Annual withholding statement to royalty owner. Before January 31 of each year, each remitter shall furnish to each royalty owner a statement, on a form prescribed by the department, showing the total royalties paid by the remitter to the royalty owner during the preceding calendar year and showing the amount of the tax deducted and withheld from the royalty payments. The royalty owner shall file a duplicate of the statement with the royalty owner's state income tax return.

History: En. Sec. 8, Ch. 468, L. 2007; Sec. 15-30-268, MCA 2007; redes. 15-30-2543 by Sec. 1, Ch. 147, L. 2009.

15-30-2544. Remitter to furnish annual statement to department. (1) On or before January 31 of each year, each remitter shall file with the department a royalty and tax statement, on a form provided by the department, that shows the total royalties paid to each royalty owner subject to withholding during the preceding calendar year or any portion of the preceding calendar year and the total amount of the tax deducted and withheld from the royalty payments under the provisions of 15-30-2536 through 15-30-2547 for the same period.

(2) The annual statement filed by a remitter under this section complies with the requirements of 15-30-2616 relating to the duties of information agents. An additional information return is not required with respect to the royalty payments.

(3) The department shall make the forms described in 15-30-2541 and this section available no later than November 15, 2007.

History: En. Sec. 9, Ch. 468, L. 2007; Sec. 15-30-269, MCA 2007; redes. 15-30-2544 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 3, Ch. 21, L. 2017.

15-30-2545. Withheld taxes held in trust for state. Each remitter that deducts and withholds the amounts under the provisions of 15-30-2536 through 15-30-2547 shall hold the amounts in trust for the state.

History: En. Sec. 10, Ch. 468, L. 2007; Sec. 15-30-270, MCA 2007; redes. 15-30-2545 by Sec. 1, Ch. 147, L. 2009.

15-30-2546. Violations by remitter — penalties — interest — remedies — waivers — rulemaking. (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all delinquent withholding taxes.

(2) In addition to the penalties imposed by 15-1-216, a remitter that fails to furnish the royalty and tax statement required by 15-30-2544 is subject to a penalty of $150 for each failure, with a minimum of $1,000.

(a) If the department has not previously imposed a penalty authorized by this section on the remitter, the penalty must be waived if the royalty and tax statement is furnished within 30 days of the department's notice that the statement is delinquent.

(b) If the department has previously imposed a penalty authorized by this section on the remitter, the penalty may only be waived if the remitter:

(i) submits the royalty and tax statement within 15 calendar days of the due date of the royalty and tax statement; or

(ii) demonstrates there is reasonable cause for the failure to furnish the required royalty and tax statement.

(c) Penalties imposed by the department for failing to timely file a royalty and tax statement occurring before May 22, 2023, are not relevant when making a determination under subsections (2)(a) and (2)(b).

(d) The department is authorized to adopt rules to administer and enforce the provisions of this section.

(3) All remedies available to the state for the administration, enforcement, and collection of income taxes are available and apply to the tax required to be deducted and withheld under the provisions of 15-30-2536 through 15-30-2547 unless otherwise specifically provided for in this part.

History: En. Sec. 11, Ch. 468, L. 2007; Sec. 15-30-271, MCA 2007; redes. 15-30-2546 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 753, L. 2023.

15-30-2547. Rulemaking authority. The department shall adopt rules that may be necessary to administer and enforce the provisions of 15-30-2536 through 15-30-2547.

History: En. Sec. 12, Ch. 468, L. 2007; Sec. 15-30-272, MCA 2007; redes. 15-30-2547 by Sec. 1, Ch. 147, L. 2009.

Part 26
Collection and Administration

15-30-2601. Tax as personal debt. Every tax imposed by this chapter and all increases, interest, and penalties thereon shall be from the time they are due and payable a personal debt from the person or fiduciary liable to pay the same to the state.

History: En. Sec. 4, Ch. 181, L. 1933; re-en. Sec. 2295.4, R.C.M. 1935; R.C.M. 1947, 84-4904; Sec. 15-30-141, MCA 2007; redes. 15-30-2601 by Sec. 1, Ch. 147, L. 2009.

15-30-2602. Returns and payment of tax — penalty and interest — refunds — credits. (1) (a) If required to file a federal income tax return pursuant to the Internal Revenue Code, each individual, including each nonresident with Montana source income that is not eligible for the nonresident exclusion in 15-30-2106, or each estate or trust shall file a return on forms and according to rules that the department may prescribe.

(b) A taxpayer that is not required to file a federal income tax return shall file a Montana return if the taxpayer has Montana taxable income after taking into consideration the additions and subtractions to federal taxable income in 15-30-2120.

(2) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(3) Except as provided in 15-30-2106, all taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and 15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return provided for in 15-30-2512. However, the tax computed must be greater by $1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than $1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

(4) If the department determines that the amount of tax due is greater than the amount of tax computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

(5) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the Montana income tax structure for that tax year.

History: En. Sec. 14, Ch. 181, L. 1933; re-en. Sec. 2295.14, R.C.M. 1935; amd. Sec. 1, Ch. 34, L. 1949; amd. Sec. 8, Ch. 260, L. 1955; amd. Sec. 2, Ch. 227, L. 1957; amd. Sec. 5, Ch. 253, L. 1959; amd. Sec. 1, Ch. 201, L; 1963; amd. Sec. 1, Ch. 347, L. 1969; amd. Sec. 1, Ch. 450, L. 1973; amd; Sec. 171, Ch. 516, L. 1973; amd. Sec. 1, Ch. 159, L. 1977; R.C.M. 1947, 84-4914(part); amd. Sec. 12, Ch. 698, L. 1979; amd. Secs. 5, 6, I.M. No; 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 4, L. 1981; amd. Sec. 2, Ch; 477, L. 1981; amd. Sec. 3, Ch. 548, L. 1981; amd. Sec. 8, Ch. 14, Sp. L. July 1992; amd. Sec. 12, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 2, Ch. 435, L. 1995; amd. Sec. 1, Ch. 67, L. 1999; amd. Sec. 7, Ch. 427, L. 1999; amd. Sec. 1, Ch. 10, L. 2003; amd. Sec. 48, Ch. 544, L. 2003; amd. Sec. 5, Ch. 594, L. 2005; Sec. 15-30-142, MCA 2007; redes. 15-30-2602 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 4, Ch. 470, L. 2009; amd. Sec. 6, Ch. 418, L. 2015; amd. Sec. 20, Ch. 503, L. 2021; amd. Sec. 7, Ch. 563, L. 2023.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.
Failure to file return — show cause hearing, 15-30-2634.
Penalty for failure to pay deficiency, 15-30-2642.
Offset of tax refunds for debt due to state, 17-4-105.

15-30-2603. Return of fiduciary. Every fiduciary, except receivers appointed by authority of law in possession of only part of the property of a taxpayer, shall make a return for the individual or estate or trust from whom the fiduciary acts. Fiduciaries required to make returns under this section are subject to all the provisions of this chapter that apply to taxpayers.

History: En. Sec. 17, Ch. 181, L. 1933; re-en. Sec. 2295.17, R.C.M. 1935; amd. Sec. 10, Ch. 260, L. 1955; R.C.M. 1947, 84-4917; amd. Sec. 165, Ch. 56, L. 2009; Sec. 15-30-143, MCA 2007; redes. 15-30-2603 by Sec. 1, Ch. 147, L. 2009.

15-30-2604. Time for filing — extensions of time. (1) (a) Except as provided in subsection (1)(b), a return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before April 15 following the close of the calendar year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal revenue service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(2) The return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. An affidavit or affirmation must be attached to the return from the persons making the return verifying that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve the taxpayer of the obligation to make a return required under this chapter. A taxpayer liable for a tax under this chapter shall pay a minimum tax of $1.

(3) (a) A taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

(b) The tax, penalty, and interest due must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.

(4) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(5) The extension of time for filing a return is not an extension of time for the payment of taxes.

History: En. Sec. 29, Ch. 181, L. 1933; re-en. Sec. 2295.19, R.C.M. 1935; amd. Sec. 1, Ch. 105, L. 1935; amd. Sec. 172, Ch. 516, L. 1973; amd. Sec; 1, Ch. 340, L. 1975; R.C.M. 1947, 84-4919; amd. Sec. 1, Ch. 169, L. 1981; amd. Sec. 1, Ch. 796, L. 1991; amd. Sec. 1, Ch. 560, L. 1995; amd. Sec. 1, Ch. 26, L. 1999; Sec. 15-30-144, MCA 2007; redes. 15-30-2604 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 5, Ch. 470, L. 2009; amd. Sec. 3, Ch. 269, L. 2011; amd. Sec. 2, Ch. 381, L. 2011; amd. Sec. 7, Ch. 123, L. 2013; amd. Sec. 8, Ch. 308, L. 2015.

Cross-References

Interest payable for time filing date extended, 15-30-2642.

Certified copies of returns, 15-30-2651.

15-30-2605. Revision of return by department — statute of limitations — examination of records and persons. (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.

(2) If a taxpayer does not file a return as required under this chapter, including a federal adjustments report required under 15-30-3403 or 15-30-3404, the department may, at any time, audit the taxpayer or estimate the Montana taxable income of the taxpayer from any information in its possession and, based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

(3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be determined by the department within 3 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

(4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return, including a federal adjustments report required under 15-30-3403 or 15-30-3404, that violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due.

(5) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of Montana taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of the person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to the person or persons.

History: En. Sec. 20, Ch. 181, L. 1933; re-en. Sec. 2295.20, R.C.M. 1935; amd. Sec. 1, Ch. 103, L. 1955; amd. Sec. 173, Ch. 516, L. 1973; R.C.M. 1947, 84-4920; amd. Sec. 2, Ch. 648, L. 1979; amd. Sec. 1, Ch. 520, L. 1993; Sec. 15-30-145, MCA 2007; redes. 15-30-2605 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 9, Ch. 308, L. 2015; amd. Sec. 9, Ch. 108, L. 2021; amd. Sec. 21, Ch. 503, L. 2021.

Cross-References

Failure to file return — show cause hearing, 15-30-2634.

15-30-2606. Tolling of statute of limitations — consent to extend time to assess tax.(1) The running of the statute of limitations provided for under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619 or a federal adjustments report required under 15-30-3403 or 15-30-3404, the statute of limitations does not apply until 3 years from the final determination date or the date the amended federal return was filed. If the taxpayer omits from federal gross

income, as defined and described in section 61 of the Internal Revenue Code, 26 U.S.C. 61, an amount properly includable as federal gross income and the amount is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does not apply for 2 additional years from the time specified in 15-30-2605.

(2) When, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the agreed-on period. If the taxpayer has agreed in writing to extend the time within which the department may propose an additional assessment, the period within which a claim for a refund or credit may be filed or a refund or credit allowed in the event a claim is not filed is automatically extended.

History: En. Sec. 2, Ch. 103, L. 1955; amd. Sec. 1, Ch. 61, L. 1967; R.C.M; 1947, 84-4920.1; Sec. 15-30-146, MCA 2007; redes. 15-30-2606 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 6, Ch. 470, L. 2009; amd. Sec. 10, Ch. 308, L. 2015; amd. Sec. 10, Ch. 108, L. 2021; amd. Sec. 22, Ch. 503, L. 2021; amd. Sec. 1, Ch. 313, L. 2023.

15-30-2607. Application for revision — appeal. An application for revision may be filed with the department by a taxpayer within 3 years from the last day prescribed for filing the return as provided in 15-30-2605(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to 15-30-2605(3), the taxpayer may revise the same return until the liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may appeal to the Montana tax appeal board.

History: En. Sec. 22, Ch. 181, L. 1933; re-en. Sec. 2295.22, R.C.M. 1935; amd. Sec. 1, Ch. 58, L. 1955; amd. Sec. 2, Ch. 201, L. 1963; amd. Sec. 102, Ch. 405, L. 1973; amd. Sec. 174, Ch. 516, L. 1973; R.C.M. 1947, 84-4922; amd. Sec. 2, Ch. 520, L. 1993; Sec. 15-30-147, MCA 2007; redes. 15-30-2607 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 11, Ch. 308, L. 2015; amd. Sec. 39, Ch. 142, L. 2021.

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

15-30-2608. Judicial review. (1) The determination of the Montana tax appeal board may be reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or in which the taxpayer's principal office or place of business is located by a complaint filed by the taxpayer or the department within 60 days after the receipt of notice of the determination. Proceedings for review must be otherwise as specified under the Montana Administrative Procedure Act.

(2) The remedies provided by this chapter for the collection of the tax must be stayed, and an assessment, distraint, or proceedings in court for collection of the taxes may not be made, begun, or prosecuted until 90 days after the court action is finally determined. From any determination of the court, an appeal to the supreme court may be taken by either party.

History: En. Sec. 1, Ch. 212, L. 1957; amd. Sec. 103, Ch. 405, L. 1973; amd. Sec. 6, Ch. 155, L. 1977; R.C.M. 1947, 84-4923.1; amd. Sec. 8, Ch. 811, L. 1991; amd. Sec. 1, Ch. 214, L. 1993; Sec. 15-30-148, MCA 2007; redes. 15-30-2608 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 40, Ch. 142, L. 2021.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

Review of disapproval of Department to refund overpayment of tax, 15-1-503.

15-30-2609. Credits and refunds — period of limitations. (1) If the department discovers from the examination of a return or upon a claim filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after expiration of the period provided by 15-30-2606 and 15-30-2607 or 1 year from the time the tax was paid, whichever is later, unless before the expiration of the period the taxpayer files a claim for refund or credit or the department has determined the existence of the overpayment and has approved the refund or credit.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the tax year of the net operating loss if that period expires later than 3 years from the due date of the return for the year to which the net operating loss is carried back.

(c) Except for a final federal adjustment required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of the adjustment, a taxpayer may file a claim for refund or credit of tax on or before the later of:

(i) the expiration of the period provided for in subsection (2)(a); or

(ii) 1 year from the date a federal adjustments report described in 15-30-3403 and 15-30-3404, was due to the department, including any extensions.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) (a) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Except as provided in subsection (4)(b), interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimated tax payments, the date of overpayment is the date on which the return for the tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding tax year. Interest does not accrue during any period for which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(i) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(ii) the overpayment results from the carryback of a net operating loss; or

(iii) the amount of interest is less than $1.

(b) Subject to the provisions of subsection (4)(a)(i), if the return is filed after the time prescribed for filing in 15-30-2604, including any extension, interest is payable from the date the return was filed.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable.

History: En. Sec. 1, Ch. 138, L. 1957; amd. Sec. 3, Ch. 199, L. 1963; amd. Sec. 192, Ch. 516, L. 1973; R.C.M. 1947, 84-4956; amd. Sec. 1, Ch; 113, L. 1979; amd. Sec. 1, Ch. 589, L. 1981; amd. Sec. 9, Ch. 811, L. 1991; amd. Sec. 3, Ch. 520, L. 1993; amd. Sec. 8, Ch. 572, L. 1995; amd. Sec. 6, Ch. 594, L. 2005; Sec. 15-30-149, MCA 2007; redes. 15-30-2609 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 7, Ch. 470, L. 2009; amd. Sec. 12, Ch. 308, L. 2015; amd. Sec. 1, Ch. 289, L. 2017; amd. Sec. 11, Ch. 108, L. 2021; amd. Sec. 1, Ch. 314, L. 2023.

15-30-2610 through 15-30-2615 reserved.

15-30-2616. Information agents' duties. (1) Each information agent shall make a return to the department of complete information concerning the following distributions made for any individual during the tax year upon which withholding tax has not been deducted:

(a) sums in excess of $10 distributed as dividends, interest as defined in section 6049 of the Internal Revenue Code, 26 U.S.C. 6049, royalties, and payments made under a retirement plan covering an owner-employee as defined in section 401(c)(3) of the Internal Revenue Code, 26 U.S.C. 401(c)(3);

(b) all interest income in excess of $10 from obligations of another state and a county, municipality, district, or other political subdivision of that state;

(c) interest, other than that specified in subsections (1)(a) and (1)(b), rents, salaries, wages, prizes, awards, annuities, pensions, and other fixed or determinable gains, profits, and income in excess of $600, except interest coupons payable to the bearer; and

(d) proceeds from real estate transactions that are required to be reported under rules or regulations of the United States department of the treasury.

(2) The return must be made under the rules adopted by the department and in the form and manner prescribed by the department. For ease of reporting, the form must be as nearly identical to the comparable federal form as possible.

History: En. Sec. 13, Ch. 181, L. 1933; re-en. Sec. 2295.13, R.C.M. 1935; amd. Sec. 7, Ch. 260, L. 1955; amd. Sec. 1, Ch. 205, L. 1967; amd. Sec; 170, Ch. 516, L. 1973; R.C.M. 1947, 84-4913; amd. Sec. 5, Ch. 289, L. 1989; amd. Sec. 1, Ch. 89, L. 1991; amd. Sec. 1, Ch. 461, L. 2001; amd. Sec. 28, Ch. 114, L. 2003; amd. Sec. 1, Ch. 24, L. 2009; Sec. 15-30-301, MCA 2007; redes. 15-30-2616 by Sec. 1, Ch. 147, L. 2009.

Cross-References

Annual statement by employer sufficient for compliance, 15-30-2507.

15-30-2617. Oaths administered by director of revenue and designated employees. The director and each employee designated by the director may administer an oath to any person or take the acknowledgment of any person in respect to any report or return required by or pursuant to this chapter or by the rules of the department.

History: En. Sec. 21, Ch. 181, L. 1933; re-en. Sec. 2295.21, R.C.M. 1935; amd. Sec. 101(a), Ch. 405, L. 1973; R.C.M. 1947, 84-4921; amd. Sec. 170, Ch. 56, L. 2009; Sec. 15-30-302, MCA 2007; redes. 15-30-2617 by Sec. 1, Ch. 147, L. 2009.

15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (6) through (8) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns;

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630; or

(d) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in 15-30-2361.

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding $500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws;

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program; or

(c) the department of public health and human services to verify, as required under 53-6-133, the income reported by applicants for medical assistance.

(7) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(8) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(b) to the department of labor and industry for the purpose of:

(i) prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs, information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(ii) administering the apprenticeship tax credit provided for in 39-6-109, employer and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

(iii) administering the annual job growth incentive tax credit provided for in 39-11-404, taxpayer and employee information necessary to implement 15-30-2361 and 15-31-175;

(c) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(d) to the board of regents information required under 20-26-1111;

(e) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(f) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been given as provided in 15-70-430. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(g) to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

History: **En. Sec. 30, Ch. 181, L. 1933; re-en. Sec. 2295.30, R.C.M. 1935; amd. Sec. 1, Ch. 110, L. 1951; amd. Sec. 1, Ch. 253, L. 1967; amd. Sec; 180, Ch. 516, L. 1973; amd. Sec. 1, Ch. 346, L. 1977; R.C.M. 1947, 84-4931; amd. Sec. 1, Ch. 131, L. 1985; amd. Sec. 2, Ch. 358, L. 1989; amd. Sec. 1, Ch. 416, L. 1989; amd. Sec. 2, Ch. 20, L. 1993; amd. Sec. 1, Ch. 245, L. 1993; amd. Sec. 4, Ch. 410, L. 1993; amd. Sec. 4, Ch. 520, L. 1993; amd. Sec. 5, Ch. 529, L. 1995; amd. Sec. 48, Ch. 546, L. 1995; amd. Sec. 1, Ch. 461, L. 1999; amd. Sec. 14, Ch. 595, L. 2005; amd. Sec. 3, Ch. 70, L. 2007; Sec. 15-30-303, MCA 2007; redes. 15-30-2618 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 21, L. 2013; amd. Sec. 1, Ch. 76, L. 2015; amd. Sec. 3, Ch. 220, L. 2015; amd. Sec. 24, Ch. 457, L. 2015; amd. Sec. 3, Ch. 151, L. 2017; amd. Sec. 4, Ch. 380, L. 2017; amd. Sec. 8, Ch. 415, L. 2019; amd. Sec. 23, Ch. 503, L. 2021; amd. Sec. 18, Ch. 550, L. 2021.**

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated the Ch. 550, L. 2021, amendments to this section December 31, 2028. Effective October 1, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

Cross-References

Restricted access to income and expense information, 15-8-120.
Audit of public assistance records, 53-2-104.
Misuse of public assistance information unlawful, 53-2-105.
Penalty for misuse of public assistance information, 53-2-106.
Public assistance — investigations by Department of Justice, Title 53, ch. 2, part 5.
Permitted disclosures of personal information — specific uses, 61-11-508.

15-30-2619. Furnishing copy of federal return — copy of share of income, credit, and deductions schedule — copies of federal corrections — filing amended return required. Each taxpayer shall, upon request of the department, furnish a copy of the return for the corresponding year that the taxpayer has filed or may file with the federal government, showing the taxpayer's net income and how obtained and the several sources from which derived. Except as provided for in 15-30-3403 or 15-30-3404, if the amount of a taxpayer's taxable income is changed or corrected by the United States internal revenue service or other competent authority, the taxpayer shall file an amended Montana return with the department within 180 days after the final determination date. Except as provided for in 15-30-3403 or 15-30-3404, if a taxpayer files an amended federal income tax return changing or correcting the taxpayer's federal taxable income for a tax year, the taxpayer shall also file an amended Montana return with the department within 180 days after filing an amended federal income tax return. The department shall supply all necessary forms and shall, upon the request of the taxpayer, return all forms to the taxpayer after they have been examined by the department.

History: En. 84-4938 by Sec. 11, Ch. 260, L. 1955; amd. Sec. 2, Ch. 61, L. 1967; amd. Sec. 182, Ch. 516, L. 1973; R.C.M. 1947, 84-4938; amd. Sec. 1, Ch. 172, L. 1995; amd. Sec. 2, Ch. 68, L. 1999; amd. Sec. 5, Ch. 184, L. 1999; Sec. 15-30-304, MCA 2007; redes. 15-30-2619 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 12, Ch. 108, L. 2021.

Cross-References

Suspension of statute of limitations for failure to notify Department of change in federal return, 15-30-2606.

15-30-2620. Department rules — conformance with Internal Revenue Code. (1) The department may adopt rules and may require facts and information to be reported as it considers necessary to enforce the provisions of this chapter.

(2) If a term is not defined in this chapter, the term has the same meaning as it does when used in a comparable context in the Internal Revenue Code.

History: En. Sec. 29, Ch. 181, L. 1933; re-en. Sec. 2295.29, R.C.M. 1935; amd. Sec. 179, Ch. 516, L. 1973; R.C.M. 1947, 84-4930; amd. Sec. 1, Ch. 222, L. 2007; Sec. 15-30-305, MCA 2007; redes. 15-30-2620 by Sec. 1, Ch. 147, L. 2009.

15-30-2621. Agreements with contiguous states. The department of revenue may, in its discretion, enter into reciprocal agreements with the taxing authorities of states contiguous to the state of Montana which tax the income of Montana residents earned in that state to provide that the tax imposed by this chapter on income derived by persons who are nonresidents of this state is not payable when such other state or states agree to grant similar treatment to residents of Montana.

History: En. 84-708.1 by Sec. 53, Ch. 405, L. 1973; amd. Sec. 1, Ch. 134, L. 1975; amd. Sec. 1, Ch. 381, L. 1975; amd. Sec. 1, Ch. 465, L. 1975; amd; Sec. 9, Ch. 98, L. 1977; amd. Sec. 53, Ch. 566, L. 1977; R.C.M. 1947, 84-708.1(18); Sec. 15-30-306, MCA 2007; redes. 15-30-2621 by Sec. 1, Ch. 147, L. 2009.

15-30-2622. Closing agreements. (1) The director of revenue or any person authorized in writing by the director is authorized to enter into an agreement with any person relating to the liability of the person in respect to the tax imposed by this chapter for any tax period.

(2) An agreement described in subsection (1) is final and conclusive and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

History: En. 84-4959 by Sec. 2, Ch. 353, L. 1977; R.C.M. 1947, 84-4959; amd. Sec. 171, Ch. 56, L. 2009; Sec. 15-30-307, MCA 2007; redes. 15-30-2622 by Sec. 1, Ch. 147, L. 2009.

15-30-2623 through 15-30-2628 reserved.

15-30-2629. Authority to collect tax — offset — hearing. (1) The department shall collect taxes that are delinquent as determined under this chapter.

(2) To collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a hearing on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

(5) The department shall provide the taxpayer with notice of the uniform dispute review available under 15-1-211 for disputing the offset of funds for collection of delinquent taxes. A request for hearing must be made within 30 days of the date of the notice.

History: En. Sec. 1, Ch. 160, L. 1985; Sec. 15-30-310, MCA 2007; redes. 15-30-2629 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 72, L. 2017.

Cross-References

Function of State Auditor in offset of taxes against refunds or other amounts owing, 17-4-105.

15-30-2630. Warrant for distraint. If any tax imposed by this chapter or any portion of such tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

History: En. Sec. 26, Ch. 181, L. 1933; re-en. Sec. 2295.26, R.C.M. 1935; amd. Sec. 1, Ch. 172, L. 1947; amd. Sec. 176, Ch. 516, L. 1973; R.C.M. 1947, 84-4928; amd. Sec. 1, Ch. 167, L. 1979; amd. Sec. 12, Ch. 439, L. 1981; amd. Sec. 1, Ch. 570, L. 1981; Sec. 15-30-311, MCA 2007; redes. 15-30-2630 by Sec. 1, Ch. 147, L. 2009.

Cross-References

Warrant for withheld taxes, 15-30-2508.

15-30-2631. Jeopardy assessments. (1) If the department finds that the assessment or collection of the tax or a deficiency for any taxable year will be jeopardized in whole or in part by delay, it may mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the department may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated.

(2) A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once, including the issuance of a warrant for distraint as provided in Title 15, chapter 1, part 7.

History: En. 84-4928.1 by Sec. 2, Ch. 212, L. 1967; amd. Sec. 177, Ch; 516, L. 1973; R.C.M. 1947, 84-4928.1; amd. Sec. 13, Ch. 439, L. 1981; Sec. 15-30-312, MCA 2007; redes. 15-30-2631 by Sec. 1, Ch. 147, L. 2009.

Cross-References

Jeopardy assessment for withheld taxes, 15-30-2504.

15-30-2632. Deferment of taxes for person in military service — filing of return. (1) The collection of the tax imposed by 15-30-2103 from a person in the military service, as defined by section 511 of the Servicemembers Civil Relief Act, 50 App. U.S.C. 511, as amended, whether due prior to or during the person's period of military service, must be deferred for not more than 180 days after the termination of the person's period of military service if the person's ability to pay the tax is materially impaired by reason of military service.

(2) Interest and penalty on any amount of tax that is deferred for any period under 15-30-2633 or this section may not accrue for the period of deferment by reason of nonpayment. The running of any statute of limitations against the payment of the tax by any lawful means must be suspended for the period of military service of any person for whom the collection of the tax is deferred under this section and for an additional period of 1 year beginning with the day following the period of military service.

(3) In accordance with the provisions of section 7508 of the Internal Revenue Code, 26 U.S.C. 7508, the individual income tax return of a person serving in a combat zone or

participating in a contingency operation and of the person's spouse is due on or before 180 days after the time of disregarded service plus the disregarded period of qualified hospitalization attributable to an injury suffered while serving in the combat zone or contingency operation.

History: En. Sec. 1, Ch. 181, L. 1943; amd. Sec. 5, Ch. 34, L. 1977; R.C.M; 1947, 84-4926; amd. Sec. 1, Ch. 30, L. 2005; amd. Sec. 10, Ch. 44, L. 2007; Sec. 15-30-313, MCA 2007; redes. 15-30-2632 by Sec. 1, Ch. 147, L. 2009.

Cross-References

Special consideration allowed military personnel and veterans, Art. II, sec. 35, Mont. Const.

15-30-2633. Stay of enforcement against military personnel. (1) A person described in 15-30-2632 may, during the person's period of military service or within 6 months thereafter, apply to a court for relief in respect of any tax obligation or any tax liability incurred by the person prior to the person's period of military service or in respect of any tax obligation or liability, whether falling due prior to or during the person's period of military service. Any district court of the state after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of the obligation or liability or to pay the tax or assessment has not been materially affected by reason of the person's military service, may grant a stay of enforcement during the applicant's period of military service and from the date of termination of the period of military service or from the date of application, if made after the service, for a period of time equal to the period of military service of the applicant or any part of that period. The stay is subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal periodic installments during the extended period at the rate of interest that may be prescribed for the tax obligation or tax liability or assessment if paid when due and subject to other terms that may be just.

(2) When a court has granted a stay as provided in this section, a fine or penalty may not accrue during the period the terms and conditions of the stay are complied with by reason of the failure to comply with the terms or conditions of the tax obligation, tax liability, or assessment in respect of which the stay was granted.

History: En. Sec. 2, Ch. 181, L. 1943; R.C.M. 1947, 84-4927; amd. Sec. 172, Ch. 56, L. 2009; Sec. 15-30-314, MCA 2007; redes. 15-30-2633 by Sec. 1, Ch. 147, L. 2009.

Cross-References

Special consideration allowed military personnel and veterans, Art. II, sec. 35, Mont. Const.

15-30-2634. Failure to file return or report — order to show cause — action by department. (1) Whenever a taxpayer fails to file a return or report within 90 days after the due date and refuses to file the return or report within 60 days after written notification or demand from the department, the department may file a petition in the district court for an order to show cause.

(2) The written notification or demand:

(a) shall recite the facts and circumstances showing the failure of the taxpayer to file the return or report;

(b) must be sent by certified mail to the address of the taxpayer as shown on the records of the department and to any other address of the taxpayer known to the department; and

(c) shall inform the taxpayer that upon failure to receive the return or report within 60 days from the date of the notification or demand the department will seek an order to show cause in district court.

(3) A petition filed under the authority of subsection (1) must be verified and shall set forth in detail the facts and circumstances showing the failure of the taxpayer to file the return or report and the response, if any, of the taxpayer to the written notification and demand.

(4) When a verified petition is filed under the authority of subsection (1), the court shall review the petition to determine if the department has made a prima facie showing that an order to show cause should be issued and, if such a showing has been made, shall issue an order directed to the taxpayer to file the return or report within 30 days of the order, or to show cause, at a special time and place, why the return or report should not be filed.

(5) A copy of the petition and a certified copy of the order must be served upon the taxpayer. Service may be made pursuant to the provisions of Rule 4(d)(3), M.R.Civ.P. If the taxpayer fails to acknowledge service, the sheriff shall serve a copy of the petition and a certified copy of the order on the taxpayer pursuant to Rule 4(d) through (m) or (n), M.R.Civ.P.

(6) At the hearing on the order to show cause, evidence produced that the department's records show that the return or the report has not been filed is prima facie evidence that the return or report has not been filed.

(7) Upon finding by a preponderance of the evidence that the taxpayer has not filed the return or report as required by law, the court may issue a further order compelling the filing of the return or report, and the taxpayer's failure to comply with the order may thereafter be proceeded against as a contempt.

History: **En. Sec. 1, Ch. 35, L. 1985; Sec. 15-30-316, MCA 2007; redes. 15-30-2634 by Sec. 1, Ch. 147, L. 2009.**

Cross-References

Contempt proceedings, Title 3, ch. 1, part 5.
Verification of pleadings, 25-4-203.
Prima facie evidence defined, 26-1-102.

15-30-2635 through 15-30-2640 reserved.

15-30-2641. Repealed. Sec. 2, Ch. 28, L. 2019.

History: **En. Sec. 24, Ch. 181, L. 1933; re-en. Sec. 2295.24, R.C.M. 1935; amd. Sec. 1, Ch. 163, L. 1955; amd. Sec. 3, Ch. 201, L. 1963; amd. Sec; 2, Ch. 347, L. 1969; amd. Sec. 175, Ch. 516, L. 1973; amd. Sec. 1, Ch. 65, L. 1975; R.C.M. 1947, 84-4924; amd. Sec. 3, Ch. 648, L. 1979; amd. Sec. 49, Ch. 370, L. 1987; amd. Sec. 10, Ch. 427, L. 1999; amd. Sec. 9, Ch. 594, L. 2005; Sec. 15-30-321, MCA 2007; redes. 15-30-2641 by Sec. 1, Ch. 147, L. 2009.**

15-30-2642. Notice of additional assessment — penalty and interest for deficiency. (1) If the department determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest on any deficiency assessment must be calculated from the applicable date specified in 15-30-2604 for payment of the tax, with penalty and interest added as provided in 15-1-216. A certificate by the department of the mailing of the notice specified in subsection (1) is prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notice.

History: **En. Sec. 14, Ch. 181, L. 1933; re-en. Sec. 2295.14, R.C.M. 1935; amd. Sec. 1, Ch. 34, L. 1949; amd. Sec. 8, Ch. 260, L. 1955; amd. Sec. 2, Ch. 227, L. 1957; amd. Sec. 5, Ch. 253, L. 1959; amd. Sec. 1, Ch. 201, L; 1963; amd. Sec. 1, Ch. 347, L. 1969; amd. Sec. 1, Ch. 450, L. 1973; amd; Sec. 171, Ch. 516, L. 1973; amd. Sec. 1, Ch. 159, L. 1977; R.C.M. 1947, 84-4914(part); amd. Sec. 3, Ch. 477, L. 1981; amd. Sec. 13, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 11, Ch. 427, L. 1999; amd. Sec. 10, Ch. 594, L. 2005; Sec. 15-30-323, MCA 2007; redes. 15-30-2642 by Sec. 1, Ch. 147, L. 2009.**

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-30-2643. Time limitations for prosecution. A prosecution for an offense under 15-1-216 must be commenced within 3 years after the offense is committed.

History: **En. Sec. 4, Ch. 648, L. 1979; Sec. 15-30-324, MCA 2007; redes. 15-30-2643 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 13, Ch. 308, L. 2015; amd. Sec. 1, Ch. 28, L. 2019.**

15-30-2644 and 15-30-2645 reserved.

15-30-2646. Relief from joint and several liability on joint return — limitations — rules. (1) A taxpayer who has obtained relief from joint and several liability under section 6015 of the Internal Revenue Code, 26 U.S.C. 6015, may apply to the department for relief from joint and several liability of the tax imposed by this chapter. The taxpayer must have filed a Montana joint return for each of the tax years for which relief is sought under this section.

(2) In applying for relief under this section, the taxpayer shall provide the department with the following:

(a) the tax years for which relief is sought;

(b) complete copies of all correspondence sent to and received from the internal revenue service;

(c) any court order stating that the taxpayer's spouse or former spouse is responsible for paying the Montana individual income tax liability; and

(d) other information demonstrating that it would be unfair to hold the taxpayer responsible for the tax, penalty, and interest.

(3) If the department determines, after consideration of the facts and circumstances presented by the taxpayer, that it would be unfair to hold the taxpayer responsible for some or

all of the tax, penalty, and interest, the department shall grant the taxpayer relief from joint and several liability. The relief from joint and several liability granted by the department:

(a) must be based on the same circumstances for which relief was granted the taxpayer by the internal revenue service; and

(b) may not exceed the relief granted by the internal revenue service.

(4) The department shall adopt rules to implement and administer this section, including but not limited to establishing procedures for applying for relief allowed under this section.

History: **En. Sec. 1, Ch. 470, L. 2009.**

15-30-2647 through 15-30-2650 reserved.

15-30-2651. Certified copies of tax returns to taxpayer — fee. (1) Certified copies of returns filed for income tax under 15-30-2604 may be furnished by the department to the taxpayer or the taxpayer's authorized representative upon payment of 50 cents for each page.

(2) All money collected under this section must be required to reimburse the department for costs involved in the preparation of the copies. All money collected must be deposited in the general fund.

(3) The provisions of this section apply to all returns on file and all returns to be filed.

History: **(1)En. Sec. 1, Ch. 187, L. 1965; amd. Sec. 20, Ch. 516, L. 1973; Sec. 84-732, R.C.M. 1947; (2)En. Sec. 3, Ch. 187, L. 1965; amd. Sec. 22, Ch. 516, L. 1973; Sec. 84-734, R.C.M. 1947; (3)En. Sec. 4, Ch. 187, L. 1965; Sec. 84-735, R.C.M. 1947; R.C.M. 1947, 84-732(part), 84-734(part), 84-735; amd. Sec. 173, Ch. 56, L. 2009; Sec. 15-30-331, MCA 2007; redes. 15-30-2651 by Sec. 1, Ch. 147, L. 2009.**

15-30-2652 through 15-30-2659 reserved.

15-30-2660. Taxpayer integrity fees. (1) (a) The department shall assess a fee as provided in subsection (2) for a taxpayer who is a participant in the Montana Health and Economic Livelihood Partnership Act provided for in Title 53, chapter 6, part 13, and Title 39, chapter 12, and owns:

(i) equity in real property or improvements to real property, or both, that exceeds the limit established for homesteads under 70-32-104 by $5,000 or more, if the real property is not agricultural land;

(ii) more than one light vehicle when the combined depreciated value of the manufacturer's suggested retail price totals $20,000 or more and the participant's equity in the vehicles exceeds that combined depreciated value by $5,000 or more; or

(iii) agricultural land with a taxable value in excess of $1,500 a year.

(b) For the purposes of subsection (1)(a):

(i) "real property or improvements to real property" does not include property held in trust by the United States for the benefit of a Montana federally recognized Indian tribe; and

(ii) the depreciated value of the manufacturer's suggested retail price must be computed as provided in 61-3-503(2).

(2) The fee is $100 a month plus an amount equal to an additional $4 a month for:

(a) each $1,000 in equity value above the limits established in subsections (1)(a)(i) and (1)(a)(ii); and

(b) each $100 of taxable value in agricultural land above $1,500.

(3) (a) The department shall assess a fee for an entity organized under 26 U.S.C. 501(d) and subject to taxes as provided in Title 15, chapter 31, if the entity has members who are receiving medicaid coverage under Title 53, chapter 6, part 13.

(b) The fee is equal to the state's share of the average annual cost per program participant, as defined in 53-6-1303, multiplied by the number of individuals in the 26 U.S.C. 501(d) organization who are receiving medicaid coverage because they are eligible under 53-6-1304, less the total annual amount the entity's members have paid in premiums.

(4) (a) For the purposes of calculating the fee required under subsection (3), the department of public health and human services shall provide the department of revenue by February 1 of each year with:

(i) the percentage of medicaid claims costs of program participants for which the state was responsible in the previous calendar year; and

(ii) the average annual cost of medical claims for program participants in the previous calendar year.

(b) The department of public health and human services shall post the average annual cost for a program participant on the department's website by February 15 of each year.

(5) An organization shall pay the fee provided for in subsection (3) as follows:

(a) on or before the last day of each month, the organization shall pay an estimated fee equal to one-twelfth of the most recently published annual cost per program participant; and

(b) on or before April 15 of each year, the organization shall report and pay any additional amount owed for the prior year or request a refund of any overpayment made in the prior year.

(6) (a) The department of public health and human services shall provide the department of revenue with the names of program participants and other necessary information to assist the department of revenue in administering and enforcing this section.

(b) The department of justice shall provide the department of revenue with vehicle registration information for the administration of this section.

(7) Fees collected pursuant to this section must be deposited in the Montana HELP Act special revenue account provided for in 53-6-1315.

(8) A fee remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.

(9) For the purposes of this section, the following definitions apply:

(a) (i) "Agricultural land" means agricultural land as described in 15-7-202 that is taxed as class three property at the rate provided in 15-6-133.

(ii) The term does not include:

(A) parcels of land that are considered nonqualified agricultural land as provided in 15-6-133(1)(c);

(B) improvements to real property; or

(C) land held in trust by the United States for the benefit of a Montana federally recognized Indian tribe.

(b) "Light vehicle" has the meaning provided in 61-1-101.

(c) "Manufacturer's suggested retail price" has the meaning provided in 61-3-503(3).

History: En. Sec. 18, Ch. 368, L. 2015; amd. Sec. 9, Ch. 415, L. 2019.

Compiler's Comments

Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 28, Ch. 368, L. 2015, and sec. 38, Ch. 415, L. 2019, which provided a June 30, 2025, termination date. Effective March 27, 2025.

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

Parts 27 through 29 reserved

Part 30
Special Income Tax Applications

15-30-3001. *(Temporary)* **Short title.** This part may be cited as the "Montana Farm and Ranch Risk Management Act". *(Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

History: En. Sec. 1, Ch. 262, L. 2001; Sec. 15-30-601, MCA 2007; redes. 15-30-3001 by Sec. 1, Ch. 147, L. 2009.

Compiler's Comments

Contingent Termination: Section 9, Ch. 262, L. 2001, provided: "[This act] [15-30-3001 through 15-30-3005 and 15-30-2110(2)(o) (15-30-2110 now repealed)] terminates on certification by the director of the department of revenue to the governor of the passage and approval of a similar program and deduction at the federal level. The director shall provide a copy of the certification to the secretary of state and the code commissioner."

15-30-3002. *(Temporary)* **Definitions.** As used in this part, the following definitions apply:

(1) "Account" means a Montana farm and ranch risk management account.

(2) "Disqualification period" means any period of 2 consecutive tax years in which the taxpayer is not engaged in an eligible agricultural business.

(3) (a) "Eligible agricultural business" means the business of agricultural production, as agricultural is defined in 15-1-101, including silviculture, conducted by an individual or family

farm corporation that files net farm income reports for tax purposes as required by the United States internal revenue service.

(b) The term does not mean the business of processing, transporting, or marketing agricultural products.

(4) "Family farm corporation" means a corporation that consists of immediate family members.

(5) "Immediate family members" means family members that are within the second degree of consanguinity or affinity.

(6) "Individual" means a human being and does not include an estate or trust. *(Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

History: En. Sec. 2, Ch. 262, L. 2001; Sec. 15-30-602, MCA 2007; redes. 15-30-3002 by Sec. 1, Ch. 147, L. 2009.

Compiler's Comments

Contingent Termination: Section 9, Ch. 262, L. 2001, provided: "[This act] [15-30-3001 through 15-30-3005 and 15-30-2110(2)(o) (15-30-2110 now repealed)] terminates on certification by the director of the department of revenue to the governor of the passage and approval of a similar program and deduction at the federal level. The director shall provide a copy of the certification to the secretary of state and the code commissioner."

15-30-3003. *(Temporary)* **Montana farm and ranch risk management account — deposits — exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural business may hold a Montana farm and ranch risk management account that is composed of contributions that were made to the account prior to January 1, 2024, as provided in this part, to use as a risk management tool for the individual's or family farm corporation's agricultural business. The number of risk management accounts that may be held is limited to one for each individual or family farm corporation.

(2) For the purposes of this section, a taxpayer is considered to have made a deposit to an account if the deposit is made during a tax year beginning before January 1, 2024.

(3) A deposit not distributed within 3 years is considered to have been distributed to the taxpayer as provided in 15-30-3005.

(4) A portion of a deposit distributed within 6 months of the date deposited is income in the year for which an exclusion was taken. The taxpayer shall file a return or amended return as necessary to report the income in the appropriate year. *(Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

History: En. Sec. 3, Ch. 262, L. 2001; Sec. 15-30-603, MCA 2007; redes. 15-30-3003 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 14, Ch. 308, L. 2015; amd. Sec. 24, Ch. 503, L. 2021.

Compiler's Comments

Contingent Termination: Section 9, Ch. 262, L. 2001, provided: "[This act] [15-30-3001 through 15-30-3005 and 15-30-2110(2)(o) (15-30-2110 now repealed)] terminates on certification by the director of the department of revenue to the governor of the passage and approval of a similar program and deduction at the federal level. The director shall provide a copy of the certification to the secretary of state and the code commissioner."

15-30-3004. *(Temporary)* **Montana farm and ranch risk management account — creation — administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The trust must be created by written instrument.

(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months of the date of deposit.

(3) The assets of the trust must consist entirely of cash or of obligations that have adequate stated interest and that pay the interest at least annually.

(4) All income of the trust must be distributed currently to the grantor.

(5) The assets of the trust may not be commingled with other property except in a common trust fund or common investment fund. *(Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

History: En. Sec. 4, Ch. 262, L. 2001; amd. Sec. 1, Ch. 566, L. 2003; Sec. 15-30-604, MCA 2007; redes. 15-30-3004 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 25, Ch. 503, L. 2021.

Compiler's Comments

Contingent Termination: Section 9, Ch. 262, L. 2001, provided: "[This act] [15-30-3001 through 15-30-3005 and 15-30-2110(2)(o) (15-30-2110 now repealed)] terminates on certification by the director of the department of revenue to the governor of the passage and approval of a similar program and deduction at the federal level. The director shall provide a copy of the certification to the secretary of state and the code commissioner."

15-30-3005. *(Temporary)* **Montana farm and ranch risk management account — distributions.** (1) Distributions from the account may be used for any purpose the taxpayer chooses.

(2) Distributions from an account:

(a) are first attributable to income and then to other deposits; and

(b) must be considered to be made from deposits in the order in which the deposits were made, beginning with the earliest deposits. Income is considered to be deposited on the date the income is received by the account.

(3) All distributions from the account are taxable unless:

(a) the deposit, or that portion of the deposit to which the distribution is attributable, was not excluded from income in calculating Montana individual income taxes for the tax year the deposit was made; or

(b) the distribution has already been taxed because it was considered a distribution as provided in subsection (4).

(4) (a) (i) Amounts that are not distributed within the 3-year eligibility period established in subsection (4)(a)(ii) are considered to be distributed to the taxpayer on the last day of the tax year in which the third anniversary of the deposit occurs. The distribution is taxable, and a penalty equal to 10% of the tax due on the distributed amount is added to the tax as a penalty.

(ii) The 3-year eligibility period for withdrawal of a deposit without penalty is the due date, including extensions, for the filing of a tax return required by this chapter or, if the taxpayer files earlier, the date the taxpayer files the return for the tax year in which the third anniversary of the deposit occurs.

(b) At the end of the first disqualification period after a period in which the taxpayer was engaged in eligible agricultural business, the balance of the account is considered to be distributed to the taxpayer and is taxable to the taxpayer. *(Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

History: En. Sec. 5, Ch. 262, L. 2001; Sec. 15-30-605, MCA 2007; redes. 15-30-3005 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 26, Ch. 503, L. 2021; amd. Sec. 1, Ch. 420, L. 2023.

Compiler's Comments

Contingent Termination: Section 9, Ch. 262, L. 2001, provided: "[This act] [15-30-3001 through 15-30-3005 and 15-30-2110(2)(o) (15-30-2110 now repealed)] terminates on certification by the director of the department of revenue to the governor of the passage and approval of a similar program and deduction at the federal level. The director shall provide a copy of the certification to the secretary of state and the code commissioner."

Part 31
Tax Credit for Qualified Education Contributions

15-30-3101. *(Temporary)* **Purpose.** Pursuant to 5-4-104, the legislature finds that the purpose of student scholarship organizations is to provide parental and student choice in education with private donations through tax replacement programs. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)*

History: En. Sec. 7, Ch. 457, L. 2015; amd. Sec. 1, Ch. 480, L. 2021.

15-30-3102. *(Temporary)* **Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Donation" means a gift of cash.

(3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.

(4) "Innovative educational program" includes any of the following:

(a) transformational learning as defined in [20-7-1601];

(b) advanced opportunity as defined in 20-7-1503;

(c) any program, service, instructional methodology, or adaptive equipment used to expand opportunity for a child with a disability as defined in 20-7-401;

(d) any courses provided through work-based learning partnerships or for postsecondary credit or career certification;

(e) technology enhancements, including but not limited to any expenditure incurred for purposes specified in 20-9-533; and

(f) capital improvements and equipment necessary to support an innovative educational program.

(5) "Partnership" has the meaning provided in 15-30-2101.

(6) "Pass-through entity" has the meaning provided in 15-30-2101.

(7) "Qualified education provider" means an education provider that:

(a) is not a public school;

(b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; or

(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

(c) is not a home school as referred to in 20-5-102(2)(e);

(d) satisfies the health and safety requirements prescribed by law for private schools in this state; and

(e) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

(8) "Small business corporation" has the meaning provided in 15-30-3301.

(9) "Student scholarship organization" means a charitable organization in this state that:

(a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

(b) is certified by the department in accordance with the requirements under 15-30-3103 to accept donations eligible for the tax credit under 15-30-3111 and provide scholarships to eligible students;

(c) allocates not less than 90% of its annual revenue from donations eligible for the tax credit under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and

(d) provides educational scholarships to eligible students without limiting access to a parent's or guardian's choice of qualified education provider.

(10) "Taxpayer" has the meaning provided in 15-30-2101. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)*

History: En. Sec. 8, Ch. 457, L. 2015; amd. Sec. 2, Ch. 480, L. 2021; amd. Sec. 2, Ch. 558, L. 2023; amd. Sec. 1, Ch. 592, L. 2025.

Compiler's Comments

2025 Amendment — Code Commissioner Correction: See 2025 Session Law for amendment made by sec. 1, Ch. 592, L. 2025. Amendment effective October 1, 2025.

In (4)(a) the Code Commissioner substituted "20-7-1601" for "20-7-1602" to reflect the relocation of the definition of transformational learning by Ch. 462, L. 2025.

15-30-3103. *(Temporary)* **Requirements for student scholarship organizations.** (1) A student scholarship organization:

(a) shall apply for certification, in a manner prescribed by the department, prior to accepting donations eligible for the tax credit under 15-30-3111. Certification under this subsection (1)(a) is valid for the tax year for which it is issued and for the immediately following tax year. In no case may a certification be valid for more than 2 tax years.

(i) The department shall issue a decision related to the certification of a student scholarship organization no more than 60 days following the date on which the department received the student scholarship organization's application for certification.

(ii) If the department finds that a student scholarship organization has not complied with the requirements of this part, the department shall deny certification.

(iii) A student scholarship organization that is denied certification must be granted 30 days to rectify the causes for the denial. If the organization fails to rectify the causes for the denial, the department shall issue a final denial of certification. A final denial of certification may not be appealed.

(iv) A student scholarship organization that has received a final denial of certification may reapply for certification with the department for the tax year following the tax year for which the denial was issued.

(v) A student scholarship organization that has not been certified under this section may not accept donations eligible for the tax credit under 15-30-3111. The organization shall disburse all remaining scholarship funds from previous donations in accordance with the requirements in this part.

(b) shall obligate at least 90% of its annual revenue from donations eligible for the tax credit under 15-30-3111 for scholarships. For the purpose of this calculation:

(i) the cost of the annual fiscal review provided for in 15-30-3105(1)(b) may be paid out of the total donations before calculation of the 90% minimum obligation amount; and

(ii) all donations subject to the 90% minimum obligation amount that are received in 1 calendar year must be paid out in scholarships within the 3 calendar years following the donation.

(c) may not limit, restrict, or reserve scholarships for use at a single education provider or any particular type of education provider and shall allow an eligible student to enroll with any qualified education provider of the parents' or legal guardian's choice;

(d) shall provide scholarships to eligible students to attend instruction offered by a qualified education provider;

(e) may not provide a scholarship to an eligible student for an academic year that exceeds the per-pupil average of total public school expenditures calculated in 20-9-570;

(f) shall maintain separate accounts for scholarship funds and operating funds;

(g) may transfer funds to another student scholarship organization with prior written notice to the department;

(h) shall maintain an application process under which scholarship applications are accepted, reviewed, approved, and denied;

(i) shall comply with payment and reporting requirements in accordance with 15-30-3104 and 15-30-3105; and

(j) shall maintain on its public website:

(i) a detailed description of the organization's scholarship application and scholarship award processes;

(ii) a list of the qualified education providers to which the student scholarship organization awarded scholarships in the previous school year; and

(iii) the following language prominently displayed: Scholarships from this student scholarship organization may be used at any qualified education provider of the parent's or legal guardian's choice.

(2) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)*

History: En. Sec. 9, Ch. 457, L. 2015; amd. Sec. 3, Ch. 480, L. 2021; amd. Sec. 2, Ch. 592, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 592, L. 2025. Amendment effective October 1, 2025.

15-30-3104. *(Temporary)* **Tuition payment limitation.** (1) A student scholarship organization shall deliver the scholarship funds directly to the qualified education provider selected by the parents or legal guardian of the child to whom the scholarship was awarded. The qualified education provider shall immediately notify the parents or legal guardian that the payment was received.

(2) A parent or legal guardian of an eligible student may not accept one or more scholarship awards from a student scholarship organization for an eligible student if the total amount of the awards exceeds the per-pupil average of total public school expenditures calculated in 20-9-570. This limitation applies to each eligible student of a parent or legal guardian. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)*

History: En. Sec. 10, Ch. 457, L. 2015; amd. Sec. 4, Ch. 480, L. 2021.

15-30-3105. *(Temporary)* **Reporting requirements for student scholarship organizations.** (1) Each student scholarship organization shall:

(a) submit an application to the department for certification as a student scholarship organization pursuant to 15-30-3103(1)(a);

(b) complete an annual fiscal review of its accounts by an independent certified public accountant within 120 days after the close of the calendar year that discloses for each of the 3 most recently completed calendar years:

(i) the total number and dollar value of individual and corporate contributions;

(ii) the total number and dollar value of scholarships obligated to eligible students;

(iii) the total number and dollar value of scholarships awarded to eligible students;

(iv) the number and amount of scholarships awarded to each qualified education provider that is not a tutor; and

(v) the cost of the annual fiscal review;

(c) submit the annual fiscal review report to the department within 150 days of the close of the calendar year; and

(d) by December 31 of each year, submit to the department links to the website containing the information required by 15-30-3103(1)(j).

(2) The department shall provide written notice to a student scholarship organization that fails to submit the annual fiscal review report, and the organization has 30 days from receipt of the notice to submit the report.

(3) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 11, Ch. 457, L. 2015; amd. Sec. 3, Ch. 592, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 592, L. 2025. Amendment effective October 1, 2025.

15-30-3106. *(Temporary)* **Student scholarship organizations — listing on website.** The department shall maintain on its website a hyperlink to a current list of all:

(1) student scholarship organizations that have been certified pursuant to 15-30-3105(1)(a);

(2) scholarship award policies adopted and published by each student scholarship organization pursuant to 15-20-3103(1)(j);

(3) the names of qualified education providers to which each student scholarship organization awarded scholarships in the previous calendar year;

(4) the number and amount of scholarships provided to each qualified education provider that is not a tutor in the previous calendar year; and

(5) hyperlinks to each student scholarship organization's website. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)*

History: En. Sec. 12, Ch. 457, L. 2015; amd. Sec. 5, Ch. 480, L. 2021; amd. Sec. 4, Ch. 592, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 592, L. 2025. Amendment effective October 1, 2025.

15-30-3107 through 15-30-3109 reserved.

15-30-3110. *(Temporary)* **Credit for providing supplemental funding to public schools — innovative educational program.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing supplemental funding to the school district for innovative educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed $200,000.

(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) (a) (i) The aggregate amount of tax credits allowed under this section is $2 million per year in tax year 2023 and $5 million per year in tax year 2024 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2024, by December 31 of each year, the department shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made regardless of whether the full credit is claimed in that tax year or carried forward.

(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received and preapproval of the tax credit.

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

(7) (a) A school district may not retain donations under this section that exceed either:

(i) the greater of $50,000 or 15% of the school district's maximum general fund budget; or

(ii) 20% of the total aggregate amount provided for in subsection (4).

(b) If a school district receives donations that exceed the amounts provided for in subsection (7)(a), the school district shall remit the excess funds within 30 days to the superintendent of public instruction for deposit in the account provided for in 20-9-250.

(c) The superintendent of public instruction shall distribute funds received under subsection (7)(b) to school districts as described in 20-9-250. A school district shall deposit funds received under this subsection (7)(c) into the school district flexibility fund and use them for out-of-pocket pupil costs provided for in 20-7-1506(5)(a).

(8) A school district shall deposit retained donations into the school district's miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative educational programs of the school district. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)*

History: En. Sec. 13, Ch. 457, L. 2015; amd. Secs. 6 thru 11, Ch. 480, L. 2021; amd. Sec. 3, Ch. 558, L. 2023.

15-30-3111. *(Temporary)* **Qualified education tax credit for donations to student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate donations to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed $200,000.

(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 3 years. The entire amount of the tax credit not used in the year

earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) (a) (i) The aggregate amount of tax credits allowed under this section is $2 million per year in tax year 2023 and $5 million per year in tax year 2024 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2024, by December 31 of each year, the department shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made regardless of whether the full credit is claimed in that tax year or carried forward.

(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(6) (a) On receiving a donation under this part, a student scholarship organization shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a student scholarship organization shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received and preapproval of the tax credit.

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)*

History: En. Sec. 14, Ch. 457, L. 2015; amd. Secs. 12 thru 17, Ch. 480, L. 2021; amd. Sec. 4, Ch. 558, L. 2023.

15-30-3112. *(Temporary)* **Report to revenue interim committee — student scholarship organizations.** Each biennium, the department shall provide to the revenue interim committee, in accordance with 5-11-210, a list of student scholarship organizations receiving contributions from businesses and individuals that are granted tax credits under 15-30-3111. The listing must detail the tax credits claimed under the individual income tax in chapter 30 and the corporate income tax in chapter 31. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 15, Ch. 457, L. 2015; amd. Sec. 11, Ch. 163, L. 2019.

15-30-3113. *(Temporary)* **Review determination — termination — confidentiality.** (1) Subject to subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to determining whether a student scholarship organization is in compliance with 15-30-3102, 15-30-3103, and 15-30-3105.

(2) If a student scholarship organization is not in compliance, the department shall provide to the organization written notice of the specific failures and the organization has 30 days from the date of the notice to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final written notice of the failure to the organization. The organization may appeal the department's determination of failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of the notice.

(3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is not resolved, the department shall issue a final department decision.

(b) The final department decision for a student scholarship organization must provide that the student scholarship organization:

(i) will be removed from the list of eligible student scholarship organizations provided in 15-30-3106 and notified of the removal; and

(ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible list cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization.

(4) A student scholarship organization that receives a final department decision may seek review of the decision from the Montana tax appeal board pursuant to 15-2-302.

(5) Either party aggrieved as a result of the decision of the Montana tax appeal board may seek judicial review pursuant to 15-2-303.

(6) If a student scholarship organization files an appeal pursuant to this section, the organization may continue to operate until the decision of the court is final.

(7) The identity of donors who make donations to school districts to support innovative educational programs or donations to a student scholarship organization is confidential tax information that is subject to the provisions of 15-30-2618. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)*

History: En. Sec. 16, Ch. 457, L. 2015; amd. Sec. 41, Ch. 142, L. 2021; amd. Sec. 18, Ch. 480, L. 2021.

15-30-3114. *(Temporary)* Rulemaking. The department may adopt rules, prepare forms, and maintain records that are necessary to implement and administer this part. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 17, Ch. 457, L. 2015.

Part 32 reserved

Part 33
Small Business and Pass-Through Entities

15-30-3301. Definition of small business corporation. (1) Except as provided in subsection (2), the term "small business corporation" is synonymous with "S. corporation" as defined in 15-30-2101 and means a corporation for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(2) A corporation that would otherwise be a small business corporation may continue to be subject to the taxes imposed by Title 15, chapter 31, if all of the following conditions are met:

(a) on December 31, 1991, the corporation was doing business in Montana and had a valid subchapter S. corporation election but had not elected to be taxed as a Montana small business corporation;

(b) after December 31, 1991, the corporation has not filed as a Montana small business corporation; and

(c) the corporation files a corporate income tax return, as required by 15-31-111, reporting all income or loss as determined under Title 15, chapter 31, and attaches a copy of the federal subchapter S. corporate tax return.

History: En. 84-1501.1 by Sec. 1, Ch. 122, L. 1959; amd. Sec. 1, Ch. 405, L. 1977; R.C.M. 1947, 84-1501.1(a), (b); amd. Sec. 1, Ch. 667, L. 1983; amd. Sec. 1, Ch. 534, L. 1989; amd. Sec. 6, Ch. 807, L. 1991; amd. Sec. 13, Ch. 143, L. 2001; Sec. 15-31-201, MCA 1999; redes. 15-30-1101 by Sec. 16(2), Ch. 143, L. 2001; Sec. 15-30-1101, MCA 2007; redes. 15-30-3301 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 7, Ch. 268, L. 2013.

15-30-3302. Income or license tax involving pass-through entities — information returns required. (1) Except as otherwise provided:

(a) a partnership is not subject to taxes imposed in Title 15, chapter 30 or 31;

(b) an S. corporation is not subject to the taxes imposed in Title 15, chapter 30 or 31; and

(c) a disregarded entity is not subject to the taxes imposed in Title 15, chapter 30 or 31.

(2) Except as otherwise provided, each partner of a partnership described in subsection (1)(a), each shareholder of an S. corporation described in subsection (1)(b), and each partner, shareholder, member, or other owner of an entity described in subsection (1)(c), the first-tier pass-through entity, is subject to the taxes provided in this chapter, if an individual, trust, or estate, and to the taxes provided in Title 15, chapter 31, if a C. corporation. If a partner, shareholder, member, or other owner of an entity described in subsection (1) is itself a pass-through entity, any individual, trust, or estate to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in this chapter and any C. corporation to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in Title 15, chapter 31.

(3) Income realized for federal income tax purposes by a financial institution that has elected to be treated as an S. corporation under subchapter S. of Chapter 1 of the Internal Revenue Code and by its shareholders that is attributable to the financial institution's change from the bad debt reserve method of accounting provided in section 585 of the Internal Revenue Code, 26 U.S.C. 585, is not taxable under Title 15, chapter 30 or 31, to the extent that the aggregate deductions allowed for federal income tax purposes under 26 U.S.C. 585 exceeded the aggregate deductions that the financial institution is allowed under 15-31-114(1)(b)(i).

(4) A publicly traded partnership as defined in section 7704(b) of the Internal Revenue Code, 26 U.S.C. 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code is exempt from paying tax under Title 15, chapter 30, as long as it is in compliance with 15-30-3313.

(5) (a) Subject to the due date provision in 15-30-2604(1)(b), a partnership that has Montana source income shall on or before the 15th day of the 3rd month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal partnership return. The return must include:

(i) the name, address, and social security number or federal identification number of each partner;

(ii) the partnership's Montana source income;

(iii) each partner's distributive share of Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;

(iv) each partner's distributive share of income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and

(v) any other information the department prescribes.

(b) Subject to the due date provision in 15-30-2604(1)(b), an S. corporation that has Montana source income shall on or before the 15th day of the 3rd month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal S. corporation return. The return must include:

(i) the name, address, and social security number or federal identification number of each shareholder;

(ii) the S. corporation's Montana source income and each shareholder's pro rata share of separately and nonseparately stated Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;

(iii) each shareholder's pro rata share of separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and

(iv) any other information the department prescribes.

(c) A disregarded entity that has Montana source income shall furnish the information and file the returns the department prescribes. The return must include:

(i) the name, address, and social security number or federal identification number of each member or other owner during the tax year;

(ii) the entity's Montana source income; and

(iii) any other information the department prescribes.

(d) (i) Except as provided in subsection (5)(d)(ii), a pass-through entity that fails to file an information return required by this section by the due date, including any extension, must be assessed a late filing penalty of $10 multiplied by the number of the entity's partners, shareholders, members, or other owners at the close of the tax year for each month or fraction of a month, not to exceed 5 months, that the entity fails to file the information return. The penalty may not exceed $2,500 for any one tax period. The department may waive the penalty imposed by this subsection (5)(d)(i) as provided in 15-1-206.

(ii) The penalty imposed under subsection (5)(d)(i) may not be imposed on a pass-through entity that has 10 or fewer partners, shareholders, members, or other owners, each of whom:

(A) is an individual, an estate of a deceased individual, or a C. corporation;

(B) has filed any required return or other report with the department by the due date, including any extension of time, for the return or report; and

(C) has paid all taxes when due.

(6) For purposes of this part:

(a) a partnership or S. corporation with business activity occurring both within and outside of this state shall calculate its Montana source income pursuant to the allocation and apportionment provisions contained in Title 15, chapter 31, part 3; and

(b) a disregarded entity that is not owned by an individual, estate, or trust and that has business activity occurring both within and outside of this state shall calculate its Montana source income pursuant to the allocation and apportionment provisions contained in Title 15, chapter 31, part 3.

History: En. Sec. 11, Ch. 181, L. 1933; re-en. Sec. 2295.11, R.C.M. 1935; amd. Sec. 5, Ch. 260, L. 1955; amd. Sec. 4, Ch. 253, L. 1959; R.C.M. 1947, 84-4911; amd. Sec. 9, Ch. 143, L. 2001; Sec. 15-30-133, MCA 1999; redes. 15-30-1102 by Sec. 16(3), Ch. 143, L. 2001; amd. Sec. 2, Ch. 225, L. 2003; Sec. 15-30-1102, MCA 2007; redes. 15-30-3302 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 2, Ch. 401, L. 2009; amd. Sec. 4, Ch. 269, L. 2011; amd. Sec. 1, Ch. 397, L. 2015; amd. Sec. 1, Ch. 6, L. 2017; amd. Sec. 2, Ch. 268, L. 2017.

15-30-3303 through 15-30-3310 reserved.

15-30-3311. Taxation of partners, shareholders, managers, and members. (1) A partner of a partnership that has Montana source income and a resident who is a partner of a partnership during any part of the tax year shall, in computing net income, include the partner's distributive share of partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit as determined pursuant to section 704 of the Internal Revenue Code (26 U.S.C. 704) and shall furnish a copy of the partner's federal schedule of the partner's share of income, deductions, and credits when filing the Montana tax return.

(2) A shareholder of an S. corporation that has Montana source income and a resident who is a shareholder of an S. corporation during any part of the tax year shall, in computing net income, include the shareholder's pro rata share of separately and nonseparately stated S. corporation income, loss, deduction, or credit as determined pursuant to sections 1366 and 1377 of the Internal Revenue Code (26 U.S.C. 1366 and 1377) and shall furnish a copy of the shareholder's federal schedule of the shareholder's share of income, deductions, and credits when filing the Montana tax return.

(3) A partner, shareholder, manager, member, or other owner of a disregarded entity that has Montana source income and a resident who is a partner, shareholder, manager, member, or other owner of a disregarded entity during any part of the tax year shall, in computing net income, include the disregarded entity's income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit.

History: En. Sec. 3, Ch. 143, L. 2001; Sec. 15-30-1111, MCA 2007; redes. 15-30-3311 by Sec. 1, Ch. 147, L. 2009.

15-30-3312. Composite returns and tax. (1) A partnership or S. corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder, member, or other owner who:

(a) is a nonresident individual, a nonresident estate, a nonresident trust, a foreign C. corporation, or a pass-through entity whose only Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other owner; and

(b) consents to be included in the filing.

(2) (a) Each participant's composite tax liability is the product obtained by:

(i) determining the tax that would be imposed, using the rate specified in 15-30-2103(1)(d), on the sum obtained by subtracting the basic standard deduction of an individual who is not married and who is not a surviving spouse or head of household, as determined under section 63(c)(2)(C) of the Internal Revenue Code, 26 U.S.C. 63(c)(2)(C), as adjusted under section 63(c)(4) of the Internal Revenue Code, from the participant's share of the entity's income from all sources as determined for Montana income tax purposes; and

(ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's income from all sources for Montana income tax purposes.

(b) A participant's share of the entity's income is the aggregate of the participant's share of the entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

(3) The composite tax is the sum of each participant's composite tax liability.

(4) The electing entity:

(a) shall remit the composite tax to the department;

(b) must be responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments and be subject to the underpayment interest as prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite return; and

(e) shall retain powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(5) The composite return must be made on forms the department prescribes and filed on or before the due date, including extensions, for filing the entity information return. The composite return is in lieu of an individual income tax return required under 15-30-2602 and 15-30-2604, a corporate income tax return required under 15-31-111, and an alternative corporate income tax return required under 15-31-403.

(6) The composite tax is in lieu of the taxes imposed under:

(a) 15-30-2103 and 15-30-2104;

(b) 15-31-101 and 15-31-121; and

(c) 15-31-403.

(7) The department may adopt rules that are necessary to implement and administer this section.

History: En. Sec. 4, Ch. 143, L. 2001; amd. Sec. 3, Ch. 225, L. 2003; amd. Sec. 11, Ch. 594, L. 2005; Sec. 15-30-1112, MCA 2007; redes. 15-30-3312 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 8, Ch. 268, L. 2013; amd. Sec. 27, Ch. 503, L. 2021; amd. Sec. 5, Ch. 701, L. 2023.

15-30-3313. Consent or withholding — rulemaking. (1) A pass-through entity that is required to file an information return as provided in 15-30-3302 and that reports a distributive share of income of $1,000 or more of Montana source income during the tax year to a partner, shareholder, member, or other owner who is a nonresident individual, a foreign C. corporation, or any other entity, organization, or account whose principal place of business or administration is outside the state of Montana or that is itself a pass-through entity shall, on or before the due date, including extensions, for the information return:

(a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

(i) file a composite return;

(ii) file an agreement of the individual nonresident to:

(A) file a return in accordance with the provisions of 15-30-2602;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by the nonresident individual's share of Montana source income reflected on the pass-through entity's information return;

(b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:

(i) file a composite return;

(ii) file the foreign C. corporation's agreement to:

(A) file a return in accordance with the provisions of 15-31-111;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes, corporate income taxes, and alternative corporate income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C. corporation's share of Montana source income reflected on the pass-through entity's information return; and

(c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also referred to in this section as a "second-tier pass-through entity":

(i) file a composite return; or

(ii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by its share of Montana source income reflected on the pass-through entity's information return.

(2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the nonresident individual a record of the amount of tax paid on the taxpayer's behalf.

(3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the alternative corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

(4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant to subsection (1)(c)(ii) must be considered as payment on the account of the individual, trust, estate, or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

(5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii), (1)(b)(iii), or (1)(c)(ii) from the partner, shareholder, member, or other owner on whose behalf the payment was made.

(6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

(7) (a) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information return reporting the name, address, and taxpayer identification number for each person or entity that has an interest in the partnership that results in Montana source income or that has sold its interest in the partnership during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection (7)(a) does not relieve a person or entity from its obligation to pay Montana income taxes.

(b) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) if one or more publicly traded partnerships has a direct or indirect majority interest in the income distributed by the pass-through entity. The pass-through entity shall apply to the department in writing for the waiver of the withholding requirements set forth in subsection (1)(c).

(c) Waivers issued by the department prior to January 1, 2016, to pass-through entities in which a publicly traded partnership has a direct or indirect majority interest will remain in effect in accordance with the law and rules in effect at the time the waiver was granted.

(d) The department shall adopt rules outlining the requirements for the waiver request.

(8) (a) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) for any partner, shareholder, member, or other owner that is a domestic second-tier pass-through entity if:

(i) the pass-through entity files a statement setting forth the name, address, and social security number or federal identification number of each of the domestic second-tier pass-through entity's partners, shareholders, members, or other owners; and

(ii) the information establishes that the domestic second-tier pass-through entity's share of Montana source income should be fully accounted for in an income tax return required under Title 15, chapter 30 or 31.

(b) For purposes of this subsection (8), the following definitions apply:

(i) "Domestic C. corporation" is a corporation that is engaged in or doing business in the state, as provided in 15-31-101.

(ii) "Domestic second-tier pass-through entity" is a pass-through entity whose interest is entirely held, either directly or indirectly, by one or more resident individuals, domestic C. corporations, or any other entities, organizations, or accounts whose principal place of business or administration is located in the state of Montana or any combination of interests held by resident individuals, domestic C. corporations, or any other entities, organizations, or accounts whose principal place of business or administration is located in the state of Montana.

(c) Subsequent to the initial approval of a waiver, the department may revoke the waiver if it determines that the partner, shareholder, member, or other owner no longer qualifies.

(9) Nothing in this section may be construed as modifying the provisions of Article IV, subsection (13), of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the extent of the taxpayer's business activity in the state.

(10) The department may adopt rules to administer and enforce the provisions of this section.

History: En. Secs. 5, 6, Ch. 143, L. 2001; amd. Sec. 4, Ch. 225, L. 2003; Sec. 15-30-1113, MCA 2007; redes. 15-30-3313 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 3, Ch. 401, L. 2009; amd. Sec. 9, Ch. 268, L. 2013; amd. Sec. 2, Ch. 397, L. 2015; amd. Sec. 1, Ch. 185, L. 2017; amd. Sec. 9, Ch. 3, L. 2019; amd. Sec. 3, Ch. 51, L. 2023.

15-30-3314. Review of pass-through entity taxation by department. The department shall review, with the assistance of interested parties, the reporting and taxation of income that is flowing through pass-through entities and the method of reporting and taxation of this income in states other than Montana and shall consider recommendations concerning the methodology that Montana should use to ensure fair and equitable taxation of income that flows through pass-through entities to other entities.

History: En. Sec. 15, Ch. 143, L. 2001; amd. Sec. 2, Ch. 318, L. 2005; Sec. 15-30-1114, MCA 2007; redes. 15-30-3314 by Sec. 1, Ch. 147, L. 2009.

15-30-3315. Electronic partnership return required — waiver — rulemaking. (1) Subject to subsection (4), each year, a partnership with more than 100 partners shall transmit to the department, in an electronic format approved by the department, all partnership returns, along with the corresponding U.S. department of treasury schedules K-1 and all other related forms and schedules that are required to be attached.

(2) If a partnership fails to file a partnership return electronically in the manner required in subsection (1), the partnership is considered to have failed to file the return and is subject to a penalty pursuant to 15-30-3302(5)(d).

(3) A partnership has more than 100 partners if, over the course of the partnership's tax year, the partnership had more than 100 partners, regardless of whether a partner was a partner for the entire year or whether the partnership had over 100 partners on any particular day in the year.

(4) The department may waive the electronic filing if the partnership demonstrates that software that satisfies the conditions of this section is not readily available or that a hardship will result if it is required to file electronically. A partnership requesting a waiver shall file a written request at least 30 days prior to the date the electronic filing is due.

(5) The department may adopt rules to administer and enforce the provisions of this section.

History: En. Sec. 1, Ch. 289, L. 2013.

15-30-3316 through 15-30-3320 reserved.

15-30-3321. Small business option unavailable on dissolution — exception. In the case of corporation dissolution, no benefits may be taken under the "small business act" or under any law or regulation shifting the tax to be paid from the corporation to the shareholders unless all shareholders agree to assume personal income tax liability the same as they would bear if they were residents of this state.

History: En. Sec. 2, Ch. 60, L. 1963; R.C.M. 1947, 84-1501.3; Sec. 15-31-203, MCA 1999; redes. 15-30-1121 by Sec. 16(2), Ch. 143, L. 2001; Sec. 15-30-1121, MCA 2007; redes. 15-30-3321 by Sec. 1, Ch. 147, L. 2009.

15-30-3322 through 15-30-3324 reserved.

15-30-3325. Definitions. As used in 15-30-3326 through 15-30-3328 and this section, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Electing pass-through entity" means a partnership or an S. corporation that elects to be subject to an entity tax.

(2) "Entity tax" means a tax that an electing pass-through entity elects to pay under 15-30-3325 through 15-30-3328 and this section.

(3) "Nonresident owner" means an individual, estate, or trust that is not a resident owner.

(4) "Owner" means a shareholder of an S. corporation or a partner in a partnership.

(5) "Resident owner" means an individual, estate, or trust owner that is a resident of the state.

History: En. Sec. 1, Ch. 702, L. 2023.

15-30-3326. Pass-through entity tax. (1) Each electing pass-through entity shall, on or before the due date of the pass-through entity's tax return, pay an entity tax. The entity tax is equal to the highest marginal tax rate in effect under 15-30-2103 for the tax year the election is made multiplied by the distributive share of Montana source income calculated under 15-30-3302 for all owners taxed under this chapter. Electing entities may substitute the distributive share of Montana source income allocated to owners who are residents as defined in 15-30-2101 for the distributive share of Montana source income calculated under 15-30-3302 for all resident owners taxed under this chapter for the computation of the tax.

(2) An electing pass-through entity shall allocate the entity tax to its owners based on their distributive share of Montana source income used to calculate the entity tax in subsection (1).

(3) The entity tax is in lieu of the tax paid under 15-30-3312 and 15-30-3313. If the owner of an electing pass-through entity is a partnership or S. corporation that does not elect to pay the entity tax, any amount of Montana source income in addition to the income subject to the entity tax is subject to the tax paid under 15-30-3313. When the provisions under 15-30-3313 apply, the withholding threshold under 15-30-3313(1) must be determined without regard to the entity tax.

(4) The electing entity shall make quarterly estimated tax payments and be subject to the underpayment interest as prescribed by 15-30-2512(5)(a) computed on the entity tax liability included on the pass-through entity return.

(5) The entity tax under this section is subject to penalties and interest under 15-1-216.

(6) A nonresident owner is not required to file an income tax return under the provisions of 15-30-2602 for a tax year if, for the tax year, all of the nonresident owner's Montana source income is subject to the entity tax.

(7) The department may adopt rules and prescribe forms necessary to administer and enforce the provisions of 15-30-3325 through 15-30-3328.

History: En. Sec. 2, Ch. 702, L. 2023.

15-30-3327. Making pass-through entity tax election. (1) The election must be made annually no later than the due date, including extensions, of the pass-through entity's tax return as prescribed by 15-30-3302. The election for a tax year is irrevocable for the year it is made.

(2) The pass-through entity must designate a Montana pass-through entity representative who is authorized to make the election to subject the pass-through entity to the tax provided for in 15-30-3325 through 15-30-3328.

(a) The Montana pass-through entity representative acts on behalf of the pass-through entity for the applicable tax year.

(b) With respect to an action required or permitted to be taken by a pass-through entity under 15-30-3325 through 15-30-3328 and a proceeding under 15-1-211 with respect to the action, the Montana pass-through entity representative for the tax year has the sole authority to act on behalf of the pass-through entity, and the pass-through entity's direct owners and indirect owners are bound by those actions.

(c) The department may establish reasonable qualifications and procedures for designating a person to be the Montana pass-through entity representative.

(3) Nothing in this section prevents a pass-through entity that does not have business activity in the state during the tax year but that does have resident owners from electing to pay the entity tax.

History: En. Sec. 3, Ch. 702, L. 2023.

15-30-3328. Pass-through entity tax — refundable credit — credit for taxes paid to another state. (1) An owner that is not a pass-through entity may claim the distributive share of the owner's entity tax paid by an electing pass-through entity as a refundable credit against the taxes under this chapter.

(2) An owner that is an electing pass-through entity shall claim its distributive share of entity tax paid by another pass-through entity as a refundable credit against the taxes under 15-30-3312, 15-30-3313, or 15-30-3326(1).

(3) An owner that is not an electing pass-through entity must allocate its distributive share of entity tax paid by another pass-through entity and any amount of estimated tax paid to owners subject to tax under this chapter based on the owner's share of profit and loss. The owner that is not an electing pass-through entity may claim the remainder as an overpayment or refund.

(4) Sections 15-30-3325 through 15-30-3328 do not prevent a resident owner from claiming a credit for taxes paid to another state as provided in 15-30-2302.

History: En. Sec. 4, Ch. 702, L. 2023.

Part 34
Partnership Audit Adjustments

15-30-3401. Definitions. For purposes of this part, Title 15, chapter 30, part 26, and Title 15, chapter 31, part 5, the following definitions apply:

(1) "Administrative adjustment request" means an administrative adjustment request filed by a partnership under 26 U.S.C. 6227.

(2) "Direct partner" means a partner that holds an interest directly in a partnership or pass-through entity.

(3) "Exempt partner" means a partner that is exempt from taxation under 15-31-102.

(4) "Federal adjustment" means a change to an item or amount determined under the Internal Revenue Code that is used by a taxpayer to compute the Montana income tax owed, regardless of whether that change results from action by the internal revenue service, including a partnership level audit, or the filing of an amended federal return, federal refund claim, or an administrative adjustment request by the taxpayer.

(5) "Federal adjustments report" includes methods or forms required by the department for use by a taxpayer to report final federal adjustments, including an amended Montana tax return, information return, or a uniform multistate report.

(6) "Federal partnership representative" means the person the partnership designates for the tax year as the partnership's representative, or the person the internal revenue service has appointed to act as the federal partnership representative, pursuant to 26 U.S.C. 6223(a).

(7) "Final determination date" means:

(a) except as provided in subsections (7)(b) and (7)(c), if the federal adjustment arises from an internal revenue service audit or other action by the internal revenue service, the final determination date is the first day on which no federal adjustments arising from that audit or other action remain to be finally determined whether by internal revenue service decision with respect to which all rights of appeal have been waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been

waived or exhausted. For agreements required to be signed by the internal revenue service and the taxpayer, the final determination date is the date on which the last party signed the agreement.

(b) for federal adjustments arising from an internal revenue service audit or other action by the internal revenue service, if the taxpayer filed as a member of a combined report, the final determination date means the first day on which no related federal adjustments arising from that audit remain to be finally determined, as described in subsection (7)(a), for the entire group; or

(c) if the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to 26 U.S.C. 6225(c), the final determination date means the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.

(8) "Final federal adjustment" means a federal adjustment after the final determination date for that federal adjustment has passed.

(9) "Indirect partner" means a partner in a partnership or pass-through entity that itself holds an interest directly, or through another indirect partner, in a partnership or pass-through entity.

(10) "Partnership level audit" means an examination by the internal revenue service at the partnership level pursuant to Subchapter C of Title 26, Subtitle F, Chapter 63, of the Internal Revenue Code, as enacted by the Bipartisan Budget Act of 2015, Public Law 114-74, which results in federal adjustments.

(11) "Reallocation adjustment" means a federal adjustment resulting from a partnership level audit or an administrative adjustment request that changes the shares of one or more items of partnership income, gain, loss, expense, or credit allocated to direct partners. A positive reallocation adjustment means the portion of a reallocation adjustment that would increase federal income for one or more direct partners, and a negative reallocation adjustment means the portion of a reallocation adjustment that would decrease federal income for one or more direct partners pursuant to regulations under 26 U.S.C. 6225.

(12) "Resident partner" means an individual, trust, or estate partner that is a resident of Montana as defined in 15-30-2101 for the relevant tax period.

(13) "Reviewed year" means the tax year of a partnership that is subject to a partnership level audit from which federal adjustments arise.

(14) "Tiered partner" means any partner that is a partnership or pass-through entity.

History: En. Sec. 1, Ch. 108, L. 2021.

15-30-3402. State partnership representative. (1) With respect to an action required or permitted to be taken by a partnership under this part and a proceeding under 15-1-211 with respect to that action, the state partnership representative for the reviewed year has the sole authority to act on behalf of the partnership, and the partnership's direct partners and indirect partners are bound by those actions.

(2) The state partnership representative for the reviewed year is the partnership's federal partnership representative unless the partnership designates in writing another person as its state partnership representative.

(3) The department may establish reasonable qualifications and procedures for designating a person, other than the federal partnership representative, to be the state partnership representative.

History: En. Sec. 2, Ch. 108, L. 2021.

15-30-3403. Reporting and payment requirements for partnerships subject to final federal adjustment and their direct partners. (1) Except for final federal adjustments that are reported under the procedures set forth in 15-30-3404, the final federal adjustments required to be reported by taking those adjustments into account in the partnership return for the year of the adjustment or the distributive share of adjustments that have been reported as required under 15-30-2619, partnerships and direct partners shall report final federal adjustments arising from a partnership level audit or an administrative adjustment request pursuant to this section.

(2) No later than 90 days after the final determination date, the partnership shall:

(a) file a completed federal adjustments report, including information required by the department. A partnership that fails to file a timely completed federal adjustments report must be assessed a late file penalty as provided for in 15-30-3302(5)(d).

(b) notify each of its direct partners of their distributive share of the final federal adjustments, including information required by the department; and

(c) file an amended composite return for the reviewed year if direct partners participated in a composite tax return under 15-30-3312, file an amended information return for direct partners as required under 15-30-2619, and pay the additional amount of composite and withholding tax as required under 15-30-3312 and 15-30-3313 that would have been due had the final federal adjustments been reported properly as required.

(3) No later than 180 days after the final determination date, each direct partner that is taxed under chapter 30 or 31 shall:

(a) file an amended return for the reviewed year reporting their distributive share of the final federal adjustments reported to them under subsection (2)(b) as required under chapters 30 and 31; and

(b) pay any additional amount of tax due as if final federal adjustments had been properly reported, plus any penalty and interest due under 15-1-216, and less any credit for related amounts paid or withheld and remitted on behalf of the direct partner under subsection (2)(c).

History: En. Sec. 3, Ch. 108, L. 2021.

15-30-3404. Election — partnership pays — rulemaking. (1) Subject to the limitations in subsection (2), an audited partnership making an election under this section shall:

(a) no later than 90 days after the final determination date, file a completed federal adjustments report, including information required by the department, and notify the department that it is making the election under this section. A partnership that fails to file a timely completed federal adjustments report must be assessed a late file penalty as provided for in 15-30-3302(5)(d).

(b) no later than 180 days after the final determination date, pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect partners:

(i) exclude from final federal adjustments the distributive share of these adjustments reported to a direct exempt partner not subject to tax under 15-31-102(3);

(ii) for the total distributive shares of the remaining final federal adjustments reported to direct corporate partners subject to tax under 15-31-101 and to direct exempt partners subject to tax under 15-31-102(3), apportion and allocate the adjustments as provided in 15-31-301 and multiply the resulting amount by the appropriate tax rate under 15-31-121;

(iii) for the total distributive shares of the remaining final federal adjustments reported to nonresident direct partners subject to tax under 15-30-3311 or 15-30-2151, determine the amount of the adjustments that are Montana source income under 15-30-3311 and multiply the resulting amount by the highest tax rate under 15-30-2103; and

(iv) for the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(A) determine the amount of the adjustments that would be subject to sourcing to Montana under 15-30-3302(6) and attributable to nonresident partners;

(B) determine the amount of the adjustments not attributable to nonresident partners; and

(C) determine the portion of the amount determined in subsection (1)(b)(iv)(B) that can be established, under regulations issued by the department, to be properly allocable to direct or indirect partners not subject to tax on the adjustments or that can be excluded under procedures for modified reporting and payment methods allowed under 15-30-3405;

(v) multiply the total of the amounts determined in subsections (1)(b)(iv)(A) and (1)(b)(iv)(B) and reduce by the amount determined in subsection (1)(b)(iv)(C) by the highest tax rate under 15-30-2103 or the appropriate tax rate in 15-31-121;

(vi) for the total distributive shares of the remaining final federal adjustments reported to resident direct partners subject to tax under 15-30-3311, multiply that amount by the highest tax rate under 15-30-2103; and

(vii) add the amounts determined in subsections (1)(b)(ii) through (1)(b)(vi), including penalty and interest as provided in 15-1-216.

(2) Final federal adjustments subject to the election under this section exclude:

(a) the distributive share of final audit adjustments that under 15-31-301 must be included in the unitary business income of any direct or indirect corporate partner, provided that the audited partnership can reasonably determine this; and

(b) any final federal adjustments resulting from an administrative adjustment request.

(3) The direct and indirect partners of an audited partnership that are tiered partners, and all of the partners of those tiered partners that are subject to tax under chapter 30 or 31, are subject to the reporting and payment requirements of 15-30-3403 and the tiered partners are entitled to make the election provided for in this section. The tiered partners or their partners shall make required reports and payments no later than 90 days after the time for filing and furnishing statements to tiered partners and their partners as established under 26 U.S.C. 6226 and the regulations thereunder. The department may promulgate regulations to establish procedures and interim time periods for the reports and payments required by tiered partners and their partners and for making the election under this section.

History: En. Sec. 4, Ch. 108, L. 2021.

15-30-3405. Modified reporting and payment method. Under procedures adopted by and subject to the approval of the department, an audited partnership or tiered partner may enter into an agreement with the department to utilize an alternative reporting and payment method, including applicable time requirements or any other provision of 15-30-3403 or 15-30-3404, if the audited partnership or tiered partner demonstrates that the requested method will reasonably provide for the reporting and payment of taxes, penalties, and interest due under the provisions of 15-30-3403 or 15-30-3404. Application for approval of an alternative reporting and payment method must be made by the audited partnership or tiered partner within the time for election as provided in 15-30-3403 or 15-30-3404, as appropriate.

History: En. Sec. 5, Ch. 108, L. 2021.

15-30-3406. Effect of election by audited partnership or tiered partner and payment of amount due. (1) The election made pursuant to 15-30-3404 is irrevocable, unless the department, in its discretion, determines otherwise.

(2) If properly reported and paid by the audited partnership or tiered partner, the amount determined in 15-30-3404(1)(b), will be treated as paid in lieu of taxes owed by its direct and indirect partners, to the extent applicable, on the same final federal adjustment. The direct partners or indirect partners may not take any deduction or credit for this amount or claim a refund of the amount in this state. Nothing in this section shall preclude a direct resident partner from claiming:

(a) a credit against taxes paid to this state pursuant to 15-30-3313; or

(b) any amounts paid by the audited partnership or tiered partner on the resident partner's behalf to another state or local tax jurisdiction in accordance with the provisions of 15-30-2302.

(3) Nothing in this section prevents the department from assessing direct partners or indirect partners for taxes owed, using the best information available, in the event that a partnership or tiered partner fails to timely make any report or payment required by this section for any reason.

History: En. Sec. 6, Ch. 108, L. 2021.

15-30-3407. De minimis exception — rulemaking. The department may, at its discretion, adopt rules establishing a de minimis amount on which a taxpayer may not be required to comply with 15-30-3403 and 15-30-3404.

History: En. Sec. 7, Ch. 108, L. 2021.

15-30-3408. Estimated tax payments during course of federal audit. A taxpayer may make estimated payments to the department, following the process prescribed by the department, of the Montana individual income or corporate income tax expected to result from a pending internal revenue service audit, prior to the due date of the federal adjustments report, without having to file the report with the department. The estimated tax payments must be credited against any tax liability ultimately found to be due to this state and will limit the accrual of further statutory interest on that amount. If the estimated tax payments exceed

the final tax liability and statutory interest ultimately determined to be due, the taxpayer is entitled to a refund or credit for the excess, provided the taxpayer files a federal adjustments report or claim for refund or credit of tax pursuant to 15-30-2609 or 15-31-509, no later than 1 year following the final determination date.

History: En. Sec. 8, Ch. 108, L. 2021.

Parts 35 and 36 reserved

Part 37
Montana Entrepreneur Magnet Act

15-30-3701. Short title. This part may be cited as the "Montana Entrepreneur Magnet Act".

History: En. Sec. 1, Ch. 458, L. 2021.

15-30-3702. Definitions. As used in this part, the following definitions apply:

(1) (a) "Capital stock" means voting or nonvoting common or preferred stock acquired as the result of employment or service as an employee or director with a corporation.

(b) The term does not include stock rights or debt securities.

(2) (a) "Corporation" means a corporation, as defined in 15-30-2101, including a unitary business, as described in 15-31-301.

(b) The term includes a predecessor or successor corporation.

(c) The term does not include either a business entity or a business entity with a financial interest in another business entity that is directly or indirectly engaged in a business activity that is illegal under federal law, regardless of how the business entity is organized.

(3) "Net long-term capital gain" has the meaning provided in section 1222(7) of the Internal Revenue Code, 26 U.S.C. 1222(7).

(4) "Predecessor or successor corporation" means a corporation that was party to a reorganization that was entirely or substantially tax-free and that occurred during or after the employment of an individual claiming the rate under 15-30-3704.

History: En. Sec. 2, Ch. 458, L. 2021.

15-30-3703. Taxation of qualifying net capital gains from sale of capital stock — conditions — rulemaking. (1) For a taxpayer to qualify for the tax rate under 15-30-3704, as of the date on which the sale or exchange of capital stock is made by the taxpayer, the corporation must have:

(a) at least 60 consecutive months of new business activity in the state, with the first activity occurring on or after January 1, 2021;

(b) more than 50% of its corporate officers residing in the state for the previous 36 months;

(c) at least 30% of its employees residing in the state for the previous 12 months; and

(d) at least 25 full-time employees residing in the state for the previous 36 months.

(2) In order for a taxpayer to qualify for the tax rate under 15-30-3704, the corporation whose capital stock was sold or exchanged may not be organized primarily for the purpose of land or real estate investment and in no case may more than 50% of the capital gain from the sale be attributable to gains on real property.

(3) The department shall adopt rules to implement and administer this part.

History: En. Sec. 3, Ch. 458, L. 2021.

15-30-3704. Tax on qualifying net capital gains. Subject to the conditions of 15-30-3703, an alternative tax rate of 0% is imposed on the net long-term capital gain that is attributable to the sale or exchange of capital stock of a corporation.

History: En. Sec. 4, Ch. 458, L. 2021.

CHAPTER 31
CORPORATE INCOME TAX OR ALTERNATIVE CORPORATE INCOME TAX

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15-31-1011. Report to legislature.
15-31-1012. Rulemaking.
15-31-1013. Media manufacturing industry workforce training account.

Chapter Cross-References

Reservation of power to tax certain persons and property within land purchased by United States under Art. I, sec. 8, part 17, U.S. Const., 2-1-202.

Reservation of power to tax certain persons and property within Glacier National Park, 2-1-205.

Reservation of power to tax certain persons and property within land ceded to United States for Fort Peck Dam, 2-1-209.

Reservation of power to tax certain persons and property within land purchased by United States for national forest purposes, 2-1-210.

Capital gains or dividend income exempt — investment in small business investment company, Title 15, ch. 33, part 1.

Income derived by municipality from property acquired for airport purposes exempt, 67-10-406.

Income derived by airport authority from airport property exempt, 67-11-306.

Tax on companies regulated by Public Service Commission to fund Consumer Counsel, 69-1-223.

Income tax deduction for land sale to beginning farmers, 80-12-211.

Tax-exempt agricultural loan authority bonds, 80-12-305.

Tax credits for investment in Montana capital company, 90-8-202, 90-8-203.

Part 1
Corporate Income Tax
Rate and Return

15-31-101. Organizations subject to tax — incorporation of terms that mean corporate income tax. (1) The term "corporation" includes an association, joint-stock company, common-law trust or business trust that does business in an organized capacity, all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States, and any limited liability company, limited liability partnership, partnership, or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided, a corporation engaged in business in the state of Montana shall annually pay to the state treasurer a corporate income tax for the privilege of carrying on business in this state the

percentage or percentages of its total net income for the preceding tax year at the rate set forth in this chapter. If a corporation has income from business activity that is taxable both within and outside of this state, the corporate income tax must be measured by the net income derived from or attributable to Montana sources as determined under part 3. Except as provided in 15-31-502 and subject to the due date provision in 15-31-111(2)(b), the tax is due and payable on the 15th day of the 5th month following the close of the tax year of the corporation. However, the tax becomes a lien as provided in this chapter on the last day of the tax year in which the income was earned and is for the privilege of carrying on business in this state for the tax year in which the income was earned.

(4) A bank organized under the laws of the state of Montana, of any other state, or of the United States and a savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporate income tax provided for under this chapter. For tax years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548).

(5) Unless the context requires otherwise, when the words "corporation income tax", "corporation license tax", "corporate license tax", "license tax", "license fee", or similar words appear in the Montana Code Annotated referring to the tax imposed under this chapter, the terms mean "corporate income tax".

History: (1), (3)En. Sec. 1, Ch. 79, L. 1917; Subd. 16, amd. Sec. 1, Ch. 64, L. 1921; re-en. Sec. 2296, R.C.M. 1921; amd. Sec. 1, Ch. 166, L. 1933; re-en. Sec. 2296, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1937; amd. Sec. 1, Ch. 92, L. 1937; amd. Sec. 1, Ch. 232, L. 1957; amd. Sec. 1, Ch. 264, L. 1959; amd. Sec. 1, Ch. 155, L. 1961; amd. Sec. 1, Ch. 269, L. 1965; amd. Sec. 1, Ch. 4, Ex. L. 1967; amd. Sec. 1, Ch. 11, Ex. L. 1969; amd. Sec. 1, Ch. 16, L. 1971; amd. Sec. 1, Ch. 333, L. 1971; amd. Sec. 1, Ch. 5, Ex. L. 1971; amd. Sec. 1, Ch. 7, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 468, L. 1973; amd. Sec. 1, Ch. 484, L. 1973; amd. Sec. 1, Ch. 5, L. 1974; amd. Sec. 1, Ch. 257, L. 1977; Sec. 84-1501, R.C.M. 1947; (2)En. Sec. 4, Ch. 79, L. 1917; re-en. Sec. 2299, R.C.M. 1921; amd. Sec. 1, Ch. 146, L. 1923; re-en. Sec. 2299, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1947; amd. Sec. 1, Ch. 235, L. 1961; amd. Sec. 3, Ch. 186, L. 1963; amd. Sec. 1, Ch. 372, L. 1973; amd. Sec. 56, Ch. 516, L. 1973; amd. Sec. 1, Ch. 161, L. 1975; Sec. 84-1504, R.C.M. 1947; (4)En. Secs. 1, 3, Ch. 23, L. 1971; Secs. 84-1501.6, 84-1501.7, R.C.M. 1947; R.C.M. 1947, 84-1501(part), 84-1501.6(part), 84-1501.7(part), 84-1504(part); amd. Sec. 2, Ch. 634, L. 1979; amd. Sec. 3, Ch. 664, L. 1979; amd. Sec. 1, Ch. 622, L. 1987; amd. Sec. 4, Ch. 659, L. 1987; amd. Sec. 1, Ch. 9, Sp. L. June 1989; amd. Sec. 69, Ch. 382, L. 1997; amd. Sec. 11, Ch. 143, L. 2001; amd. Sec. 3, Ch. 163, L. 2005; amd. Sec. 5, Ch. 269, L. 2011; amd. Sec. 10, Ch. 268, L. 2013.

Cross-References

Taxation of corporations operating free-trade zone, 30-15-104.
Payment of taxes on change from state to national banking corporation, 32-1-363.
Taxes on banks that have ceased to do business, 32-1-509.
Taxation of credit unions, Title 32, ch. 3, part 9.
Taxation of insurers preempted by state, 33-2-707.
Business trusts subject to tax, 35-5-205.
Certificate required from Department prior to reinstatement of dissolved corporation, 35-6-104.

15-31-102. Organizations exempt from tax — unrelated business income not exempt. (1) Except as provided in subsection (3), there may not be taxed under this title any income received by any:

(a) labor, agricultural, or horticultural organization;

(b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;

(c) cemetery company owned and operated exclusively for the benefit of its members;

(d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net income of which inures to the benefit of any private stockholder or individual;

(f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

(g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or similar organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

(i) cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j) corporations or associations organized for the exclusive purpose of holding title to property, collecting income from the property, and turning over the entire amount of the income, less expenses, to an organization that itself is exempt from the tax imposed by this title;

(k) wool and sheep pool, which is an association owned and operated by agricultural producers organized to market association members' wool and sheep, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for this purpose, does not include expenses and money distributed to members contributing wool and sheep.

(l) corporation that qualifies as a domestic international sales corporation (DISC) under the provisions of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect for the entire taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that election under federal law, each person who at any time is a shareholder of the corporation is subject to taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as provided by federal law for all periods for which the election is effective.

(m) farmers' market association not organized for profit, no part of the net income of which inures to the benefit of any member, but that is organized for the sole purpose of providing for retail distribution of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

(n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C. 584(a).

(2) In determining the corporate income tax imposed under this part, there may not be included any earnings derived from any public utility managed or operated by any subdivision of the state or from the exercise of any governmental function.

(3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended, earned by any exempt corporation resulting in a federal unrelated business income tax liability of more than $100 must be taxed as other corporation income is taxed under this title. An exempt corporation subject to taxation on unrelated business income under this section shall file a copy of its federal exempt organization business income tax return on which it reports its unrelated business income with the department.

History: **En. Sec. 1, Ch. 79, L. 1917; Subd. 16, amd. Sec. 1, Ch. 64, L. 1921; re-en. Sec. 2296, R.C.M. 1921; amd. Sec. 1, Ch. 166, L. 1933; re-en. Sec. 2296, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1937; amd. Sec. 1, Ch. 92, L. 1937; amd. Sec. 1, Ch. 232, L. 1957; amd. Sec. 1, Ch. 264, L. 1959; amd. Sec. 1, Ch. 155, L. 1961; amd. Sec. 1, Ch. 269, L. 1965; amd. Sec. 1, Ch. 4, Ex. L. 1967; amd. Sec. 1, Ch. 11, Ex. L. 1969; amd. Sec. 1, Ch. 16, L. 1971; amd. Sec. 1, Ch. 333, L. 1971; amd. Sec. 1, Ch. 5, Ex. L. 1971; amd. Sec. 1, Ch. 7, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 468, L. 1973; amd. Sec. 1, Ch. 484, L. 1973; amd. Sec. 1, Ch. 5, L. 1974; amd. Sec. 1, Ch. 257, L. 1977; R.C.M. 1947, 84-1501(part); amd. Sec. 1, Ch. 267, L. 1979; amd. Sec. 1, Ch. 284, L. 1979; amd. Sec. 1, Ch. 537, L. 1981; amd. Sec. 1, Ch. 604, L. 1985; amd. Sec. 72, Ch. 42, L. 1997; amd. Sec. 1, Ch. 368, L. 1997; amd. Sec. 70, Ch. 382, L. 1997; amd. Sec. 29, Ch. 114, L. 2003; amd. Sec. 4, Ch. 163, L. 2005; amd. Sec. 11, Ch. 268, L. 2013.**

Cross-References

Farm mutual insurers subject only to certain taxes, 33-4-409.
Insurance guaranty association exemptions, 33-10-107.
Life and health insurance guaranty association, 33-10-208.
Exemption of rural electric and telephone cooperatives, 35-18-503.
Exemption for water users' association, 85-6-108.

15-31-103. Research and development firms exempt from taxation — application. (1) A research and development firm organized to engage in business in the state of Montana for the first time is not subject to any of the taxes imposed by this chapter on net income earned from research and development activities during its first 5 taxable years of activity in Montana.

For purposes of 15-31-401 and this section, "taxable year" means a research and development firm's taxable year for federal income tax purposes.

(2) (a) To be considered a research and development firm, the chief executive officer of the firm or the officer's agent shall file with the department of revenue an application for treatment as a research and development firm.

(b) The application must be made on a form to be provided by the department. The form must include, at a minimum:

(i) the name and address of each officer of the research and development firm;

(ii) the name of the research and development firm as required for the purpose of incorporation;

(iii) the information required by 35-7-105(1);

(iv) the date the articles of incorporation were filed with the secretary of state; and

(v) other information the department requires to effectively administer the provisions of this section.

(c) The application must be filed with the department before the end of the first calendar quarter during which the research and development firm engages in business in Montana.

(3) On receipt of the information required in subsection (2)(b), provided that it was filed in the time allowed under subsection (2)(c), the department shall designate the applicant as a research and development firm for the purposes of this section.

(4) Failure by an applicant to provide information required by the department under subsection (2)(b) or, except as provided in subsection (5), failure to file within the time allowed under subsection (2)(c) automatically disqualifies the applicant from being designated and treated as a research and development firm for the purposes of this section.

(5) The director of the department may grant an extension of time for an applicant to file an application for treatment as a research and development firm, provided the extension is given in writing and the extension does not extend beyond 30 days from the date the application was required to be filed under subsection (2)(c).

(6) For the purpose of calculating or otherwise determining the period for which a deduction, exclusion, exemption, or credit may be taken under the provisions of this chapter, the department shall disregard a research and development firm's first 5 taxable years of activity in Montana and administer the deduction, exclusion, exemption, or credit as if the corporation did not exist during those taxable years. This treatment of a research and development firm extends to net operating loss carryback and net operating loss carryforward provisions allowed under this chapter.

History: En. Sec. 1, Ch. 659, L. 1987; amd. Sec. 185, Ch. 368, L. 1991; amd. Sec. 18, Ch. 240, L. 2007; amd. Sec. 223, Ch. 271, L. 2019.

15-31-104 through 15-31-109 reserved.

15-31-110. Electronic corporate income tax return required — waiver — rulemaking. (1) Subject to subsection (3), for income tax periods beginning after December 31, 2022, a corporation shall transmit to the department, in an electronic format approved by the department, the corporate income tax return required by 15-31-111, along with the corresponding federal income tax return filed with the internal revenue service and all other related forms and schedules required to be attached.

(2) Except as provided in subsections (3) through (5), for income tax periods beginning after December 31, 2023, if a corporation fails to file a corporate income tax return electronically in the manner required in subsection (1), the corporation is subject to a late filing penalty pursuant to 15-1-216(1).

(3) (a) For income tax periods beginning between January 1, 2023, and December 31, 2024, a corporation is not required to file a corporate income tax return electronically if it attests, on a form provided by the department, that the corporation attempted to file electronically but was unsuccessful in doing so or that hardship would result by filing electronically.

(b) The For income tax periods beginning after December 31, 2024, the department may waive the electronic filing if the corporation demonstrates that software that satisfies the conditions of this section is not readily available or that a hardship will result if it is required to file electronically. A corporation requesting a waiver shall file a written request at least 30 days prior to the date the electronic filing is due, including extensions for filing the return.

(4) (a) A corporation that has gross receipts of $750,000 or less in a tax period is exempt from the electronic filing requirements described in this section for that taxable period.

(b) For the purposes of this section, "gross receipts" means the total gross revenue of the corporation for the tax period from all sources, without any subtraction for costs or expenses.

(5) If the return required to be filed electronically is transmitted on or before the due date, including extensions, and the return is rejected, the department shall allow the filer 10 calendar days from the date of the first transmission to perfect the return for electronic resubmission.

(6) The department may adopt rules to administer and enforce the provisions of this section.

History: En. Sec. 1, Ch. 225, L. 2023.

15-31-111. Return to be filed — penalty and interest. (1) A corporation subject to the corporate income tax imposed under this chapter shall for each tax period file an accurate return of its net income for the tax period in the manner and form prescribed by the department. The return must contain all of the information that is appropriate and in the opinion of the department necessary to determine the correctness of the net income disclosed by the return and to carry out the provisions of this chapter. The return must be signed by the president, the vice president, the treasurer, the assistant treasurer, or the chief accounting officer.

(2) (a) Except as provided in subsection (2)(b), if the corporation is reporting on a calendar year basis, the return must be filed with the department on or before May 15 following the close of the calendar year. If the corporation is reporting on a fiscal year basis, the return must be filed with the department on or before the 15th day of the 5th month following the close of its fiscal year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal revenue service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(3) (a) A corporation is allowed an automatic extension of time for filing its return of up to 6 months following the date prescribed for filing of its tax return. The tax, penalty, and interest must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-31-510(2).

(b) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(4) Receivers, trustees in bankruptcy, or assignees operating the property or business of a corporation subject to the corporate income tax imposed by this chapter shall make the return in the same manner and form as the corporation is required to make the return. Any corporate income tax due on the basis of the return is assessed and collected in the same manner as if assessed directly against the corporation of whose business or property the receiver, trustee, or assignee has custody and control. The receiver, trustee, or assignee shall pay the tax out of the property of the corporation, prior to the claims of creditors or stockholders.

History: En. Sec. 4, Ch. 79, L. 1917; re-en. Sec. 2299, R.C.M. 1921; amd. Sec. 1, Ch. 146, L. 1923; re-en. Sec. 2299, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1947; amd. Sec. 1, Ch. 235, L. 1961; amd. Sec. 3, Ch. 186, L. 1963; amd. Sec. 1, Ch. 372, L. 1973; amd. Sec. 56, Ch. 516, L. 1973; amd. Sec. 1, Ch. 161, L. 1975; R.C.M. 1947, 84-1504(part); amd. Sec. 1, Ch. 54, L. 1995; amd. Sec. 2, Ch. 51, L. 1997; amd. Sec. 12, Ch. 594, L. 2005; amd. Sec. 6, Ch. 269, L. 2011; amd. Sec. 12, Ch. 268, L. 2013.

Cross-References

Certified copies of return available, 15-31-551.

15-31-112. Taxable period. The corporate income tax must be computed on the basis of the corporation's total net income for the taxable period. The corporation's taxable period is the same as the taxable year for federal income tax purposes. If a corporation changes its taxable year, it shall promptly notify the department.

History: En. Sec. 4, Ch. 79, L. 1917; re-en. Sec. 2299, R.C.M. 1921; amd. Sec. 1, Ch. 146, L. 1923; re-en. Sec. 2299, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1947; amd. Sec. 1, Ch. 235, L. 1961; amd. Sec. 3, Ch. 186, L. 1963; amd. Sec. 1, Ch. 372, L. 1973; amd. Sec. 56, Ch. 516, L. 1973; amd. Sec. 1, Ch. 161, L. 1975; R.C.M. 1947, 84-1504(1); amd. Sec. 13, Ch. 268, L. 2013.

15-31-113. *(Temporary)* **Gross income and net income.** (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or corporate income tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding:

(i) gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section;

(ii) income received by a corporation from the manufacture of ammunition components if the corporation is engaged in the primary business of the manufacture of ammunition components as provided in 30-20-207; and

(iii) income received by a corporation that is attributable to providing a bona fide loan in an arms' length transaction to a manufacturer of ammunition components as provided in 30-20-208.

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporate income tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporate income tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporate income tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year. *(Terminates December 31, 2035—sec. 11, Ch. 675, L. 2025.)*

15-31-113. *(Effective January 1, 2036)* **Gross income and net income.** (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or corporate income tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporate income tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporate income tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporate income tax purposes in the same manner as a corporation

that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year.

History: En. Sec. 4, Ch. 79, L. 1917; re-en. Sec. 2299, R.C.M. 1921; amd. Sec. 1, Ch. 146, L. 1923; re-en. Sec. 2299, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1947; amd. Sec. 1, Ch. 235, L. 1961; amd. Sec. 3, Ch. 186, L. 1963; amd. Sec. 1, Ch. 372, L. 1973; amd. Sec. 56, Ch. 516, L. 1973; amd. Sec. 1, Ch. 161, L. 1975; R.C.M. 1947, 84-1504(part); amd. Sec. 2, Ch. 483, L. 1981; amd. Sec. 2, Ch. 278, L. 1995; amd. Sec. 14, Ch. 268, L. 2013; amd. Sec. 6, Ch. 675, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 675, L. 2025. Amendment effective May 13, 2025, and terminates December 31, 2035.

Retroactive Applicability: Section 10, Ch. 675, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 2025."

Cross-References

Payment received under Title 70, ch. 31, for relocation because of federally assisted program not income, 70-31-106.

Conservancy district bonds exemption, 85-9-626.

Board of Housing bonds exemption, 90-6-125.

15-31-114. Deductions allowed in computing income. (1) In computing the net income, the following deductions are allowed from the gross income received by the corporation within the year from all sources:

(a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation contained in this section, and rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

(b) (i) all losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation must be the same as the elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and a deduction may not be made for any amount of expense of restoring property or making good the exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105.

(ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.

(c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements. The reasonable allowance must be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporate income tax purposes must be the same as the elections made for federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2)(b).

(3) In the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered, except that the deduction for dividends is not allowed with respect to dividends attributable to any income that is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A regulated investment company is not allowed a deduction for dividends received as defined in sections 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be amended or renumbered.

History: En. Sec. 2, Ch. 79, L. 1917; amd. Sec. 1, Ch. 69, L. 1919; amd. Sec. 1, Ch. 258, L. 1921; re-en. Sec. 2297, R.C.M. 1921; amd. Sec. 2, Ch. 166, L. 1933; re-en. Sec. 2297, R.C.M. 1935; amd. Sec. 1, Ch. 133, L. 1947; amd. Sec. 1, Ch. 263, L. 1959; amd. Sec. 1, Ch. 235, L. 1971; amd. Sec. 1, Ch. 358, L. 1971; amd. Sec. 1, Ch. 320, L. 1973; amd. Sec. 54, Ch. 516, L. 1973; amd. Sec. 1, Ch. 54, L. 1974; amd. Sec. 3, Ch. 405, L. 1977; amd. Sec. 4, Ch. 576, L. 1977; R.C.M. 1947, 84-1502; amd. Sec. 3, Ch. 634, L. 1979; amd. Sec. 1, Ch. 574, L. 1981; amd. Sec. 21, Ch. 614, L. 1981; amd. Sec. 1, Ch. 447, L. 1983; amd. Sec. 11, Ch. 516, L. 1985; amd. Sec. 12, Ch. 611, L. 1987; amd. Sec. 1, Ch. 538, L. 1989; amd. Sec. 4, Ch. 617, L. 1989; amd. Sec. 3, Ch. 278, L. 1995; amd. Sec. 103, Ch. 574, L. 2001; amd. Sec. 30, Ch. 114, L. 2003; amd. Sec. 8, Ch. 482, L. 2003; amd. Sec. 15, Ch. 268, L. 2013; amd. Sec. 1, Ch. 157, L. 2023.

Cross-References

Deduction for energy-conserving investments, 15-32-103.

Tax credits for investment in Montana capital company, 90-8-202, 90-8-203.

15-31-115. Reaffirmation of bond income inclusion in definition of net income for corporate income tax purposes. Notwithstanding the provisions of any other law, the income from bonds or other obligations issued by any state or political subdivision of a state are included in gross and net income for purposes of the corporate income tax.

History: En. Sec. 3, Ch. 673, L. 1983; amd. Sec. 18, Ch. 130, L. 2005; amd. Sec. 16, Ch. 268, L. 2013.

15-31-116. Repealed. Sec. 1, Ch. 125, L. 1989.

History: En. Sec. 1, Ch. 673, L. 1983.

15-31-117. Tax deductibility. (1) The amount of contributions made by a small business to its independent liability fund as defined in 33-27-103 is deductible to that small business on its Montana corporate income tax or alternative corporate income tax return for the taxable year in which the contributions are made to the fund.

(2) Administrative costs under 33-27-117(1), except those paid from the principal of an independent liability fund, are deductible on the Montana corporate income tax or alternative corporate income tax return for the taxable year in which they are paid or accrued.

(3) Income on the money, assets, and investments in an independent liability fund as defined in 33-27-103 may be contributed to the fund. If it is not so contributed, it is taxable in accordance with the applicable provisions of this chapter.

History: En. Secs. 10, 11, 15, Ch. 564, L. 1987; amd. Sec. 17, Ch. 268, L. 2013.

15-31-118. Taxable liability on termination of independent liability fund. If an independent liability fund established pursuant to Title 33, chapter 27, is terminated as provided in 33-27-119, the income from the principal distributed pursuant to 33-27-119(3) is taxable to that person or persons under the applicable provisions of this chapter.

History: En. Sec. 18, Ch. 564, L. 1987; amd. Sec. 2, Ch. 111, L. 2001.

15-31-119. Net operating losses — carryovers and carrybacks — limit. (1) The net operating loss deduction is the aggregate of net operating loss carryovers to the tax period plus the net operating loss carrybacks to the tax period.

(2) The term "net operating loss" means the excess of the deductions allowed by this section over the gross income, with the modifications specified in subsection (6).

(3) If for any tax period ending before January 1, 2018, a net operating loss is sustained, the loss must be a net operating loss carryback to each of the three tax periods preceding the tax period of the loss and must be a net operating loss carryover to each of the seven tax periods following the tax period of the loss.

(4) A net operating loss for any tax period beginning after December 31, 2017, in addition to being a net operating loss carryback to each of the three preceding tax periods, must be a net operating loss carryover to each of the 10 tax periods following the tax period of the loss. A net operating loss carryback provided for in this subsection may not exceed $500,000 per tax period.

(5) Except as provided in subsection (11), the portion of the loss that must be carried to each of the other tax years must be the excess, if any, of the amount of the loss over the sum of the net income for each of the prior tax periods to which the loss was carried. For purposes of this subsection, the net income for the prior tax period must be computed with the modification specified in subsection (6)(b) and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any tax period after the loss period, and the net income so computed may not be considered to be less than zero.

(6) The modifications referred to in subsection (2) are as follows:

(a) The net operating loss deduction may not be allowed.

(b) The deduction for depletion may not exceed the amount that would be allowable if computed under the cost method.

(c) Any net operating loss carried over to any tax year must be calculated under the provisions of this section effective for the tax year for which the return claiming the net operating loss carryover is filed.

(7) A net operating loss deduction may be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(8) In the case of a merger of corporations, the surviving corporation may not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity may not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(9) Notwithstanding the provisions of 15-31-531, interest may not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(10) The net operating loss deduction must be allowed with respect to tax periods.

(11) A taxpayer entitled to a carryback period for a net operating loss may elect to forego the entire carryback period. If the election is made, the loss may be carried forward only. The

election must be made on or before the date on which the return is due, including any extension of the due date, for the tax year of the net operating loss for which the election is to be in effect. The election is irrevocable for the year made.

(12) Notwithstanding any other provision of this section, the net operating loss deduction is not allowed in the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(b) of the Internal Revenue Code of 1986, as that section may be amended or renumbered.

History: En. Sec. 3, Ch. 538, L. 1989; amd. Sec. 4, Ch. 278, L. 1995; amd. Sec. 1, Ch. 409, L. 2017.

15-31-120 reserved.

15-31-121. Rate of tax — minimum tax — distribution of revenue. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 is 6¾% of all net income for the tax period.

(2) For a taxpayer making a water's-edge election, the percentage of net income to be paid under 15-31-101 is 7% of all taxable net income for the tax period.

(3) Each corporation subject to taxation under this part shall pay a minimum tax of not less than $50.

History: En. Sec. 1, Ch. 79, L. 1917; Subd. 16, amd. Sec. 1, Ch. 64, L. 1921; re-en. Sec. 2296, R.C.M. 1921; amd. Sec. 1, Ch. 166, L. 1933; re-en. Sec. 2296, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1937; amd. Sec. 1, Ch. 92, L. 1937; amd. Sec. 1, Ch. 232, L. 1957; amd. Sec. 1, Ch. 264, L. 1959; amd. Sec. 1, Ch. 155, L. 1961; amd. Sec. 1, Ch. 269, L. 1965; amd. Sec. 1, Ch. 4, Ex. L. 1967; amd. Sec. 1, Ch. 11, Ex. L. 1969; amd. Sec. 1, Ch. 16, L. 1971; amd. Sec. 1, Ch. 333, L. 1971; amd. Sec. 1, Ch. 5, Ex. L. 1971; amd. Sec. 1, Ch. 7, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 468, L. 1973; amd. Sec. 1, Ch. 484, L. 1973; amd. Sec. 1, Ch. 5, L. 1974; amd. Sec. 1, Ch. 257, L. 1977; R.C.M. 1947, 84-1501(part); amd. Sec. 7, Ch. 616, L. 1987; amd. Sec. 90, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 15, Sp. L. July 1992; amd. Sec. 14, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 31, Ch. 51, L. 1999; amd. Sec. 2, Ch. 521, L. 2003; amd. Sec. 35, Ch. 2, L. 2009.

Cross-References

Credit for public contractor's license fee, 15-50-207.

Tax credits for investment in Montana capital company, 90-8-202, 90-8-203.

15-31-122. Alternative gross sales tax. Pursuant to the provisions of Article III, section 2, of 15-1-601, every corporation deriving income from sources both within and without the state of Montana and required to file a return and whose only activity in Montana consists of making sales and which does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay a tax of 1/2 of 1% of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise imposed under 15-31-101 and 15-31-121. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of Article IV, sections 11 and 12, of 15-1-601.

History: En. Sec. 1, Ch. 79, L. 1917; Subd. 16, amd. Sec. 1, Ch. 64, L. 1921; re-en. Sec. 2296, R.C.M. 1921; amd. Sec. 1, Ch. 166, L. 1933; re-en. Sec. 2296, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1937; amd. Sec. 1, Ch. 92, L. 1937; amd. Sec. 1, Ch. 232, L. 1957; amd. Sec. 1, Ch. 264, L. 1959; amd. Sec. 1, Ch. 155, L. 1961; amd. Sec. 1, Ch. 269, L. 1965; amd. Sec. 1, Ch. 4, Ex. L. 1967; amd. Sec. 1, Ch. 11, Ex. L. 1969; amd. Sec. 1, Ch. 16, L. 1971; amd. Sec. 1, Ch. 333, L. 1971; amd. Sec. 1, Ch. 5, Ex. L. 1971; amd. Sec. 1, Ch. 7, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 468, L. 1973; amd. Sec. 1, Ch. 484, L. 1973; amd. Sec. 1, Ch. 5, L. 1974; amd. Sec. 1, Ch. 257, L. 1977; R.C.M. 1947, 84-1501(part); amd. Sec. 4, Ch. 51, L. 2023.

Cross-References

Multistate Tax Compact, Title 15, ch. 1, part 6.

15-31-123. Repealed. Sec. 4, Ch. 159, L. 2003.

History: En. 84-4960, 84-4961 by Secs. 1, 2, Ch. 412, L. 1977; R.C.M. 1947, 84-4960, 84-4961(part); amd. Sec. 3, Ch. 111, L. 1979; amd. Sec. 3, Ch. 520, L. 1981; amd. Sec. 2, Ch. 704, L. 1983; amd. Sec. 9, Ch. 20, L. 1985.

15-31-124. Repealed. Sec. 3, Ch. 15, L. 2021.

History: En. 84-1520 by Sec. 2, Ch. 435, L. 1975; R.C.M. 1947, 84-1520; amd. Sec. 4, Ch. 694, L. 1991; amd. Sec. 32, Ch. 51, L. 1999; amd. Sec. 8, Ch. 591, L. 2001; amd. Sec. 3, Ch. 405, L. 2003.

15-31-125. Repealed. Sec. 3, Ch. 15, L. 2021.

History: En. 84-1523 by Sec. 3, Ch. 435, L. 1975; R.C.M. 1947, 84-1523; amd. Sec. 18, Ch. 268, L. 2013.

15-31-126. Repealed. Sec. 3, Ch. 15, L. 2021.

History: En. 84-1525 by Sec. 5, Ch. 435, L. 1975; R.C.M. 1947, 84-1525.

15-31-127. Repealed. Sec. 3, Ch. 15, L. 2021.

History: En. 84-1524 by Sec. 4, Ch. 435, L. 1975; R.C.M. 1947, 84-1524.

15-31-128 and 15-31-129 reserved.

15-31-130. Repealed. Sec. 54, Ch. 151, L. 2017.
History: En. Sec. 12, Ch. 595, L. 2005; amd. Sec. 2, Ch. 227, L. 2011.

15-31-131. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 1, Ch. 706, L. 1989; amd. Sec. 1, Ch. 416, L. 1991; amd. Sec. 17, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 73, Ch. 42, L. 1997; amd. Sec. 4, Ch. 540, L. 2001.

15-31-132. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 6, Ch. 606, L. 1991; amd. Sec. 20, Ch. 7, L. 2001.

15-31-133. Repealed. Sec. 3, Ch. 399, L. 2019.
History: En. Sec. 1, Ch. 540, L. 2001.

15-31-134. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 7, Ch. 582, L. 2003.

15-31-135. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 2, Ch. 542, L. 1991; amd. Sec. 2, Ch. 140, L. 2011.

15-31-136. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 3, Ch. 542, L. 1991; amd. Sec. 3, Ch. 140, L. 2011.

15-31-137. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 2, Ch. 617, L. 1993.

15-31-138 through 15-31-140 reserved.

15-31-141. Consolidated returns — computation and procedure — penalty and interest. (1) Corporations that are affiliated may not file a consolidated return unless at least 80% of all classes of stock of each corporation involved is owned directly or indirectly by one or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and, except for a unitary business operation described in subsection (2)(b), permission to file a consolidated return is given by the department. For purposes of this section, a "unitary business operation" means one in which:

(a) the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations; or

(b) all of the corporations in the affiliated group operate exclusively in Montana, are not multistate corporations, and have filed a consolidated federal return for the tax year.

(3) The election to file a consolidated return is binding as long as the affiliated group continues to file a federal consolidated return.

(4) If the conditions of subsections (1) and (2) are met, the department may require corporations to file a consolidated return when the department considers a consolidated return necessary.

(5) A corporation liable to report under this chapter and owning or controlling, either directly or indirectly, at least 80% of all classes of stock of each corporation involved may be required to make a consolidated report showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate stockholdings and intercorporate accounts. A corporation liable to report under this chapter and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate stockholdings and intercorporate accounts. If it appears to the department that any arrangement exists in a manner that improperly reflects the business done, the segregable assets, or the entire net income earned from business done in this state, the department may equitably adjust the tax in a manner that it may determine.

(6) (a) If an affiliated group elects to file a consolidated return under the provisions of this section, a corporation of the affiliated group shall file a separate return for any portion of its tax

period in which its income is not included in the consolidated return of the group. Subject to the due date provision in 15-31-111(2)(b), the separate return must be filed no later than the 15th day of the 5th month following the close of the tax period for which a consolidated return of the affiliated group is filed.

(b) (i) A corporation is allowed an automatic extension of time for filing its tax return of up to 6 months following the date prescribed for filing its return. The tax, penalty, and interest must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-31-510(2).

(ii) The department may grant an additional extension of time for filing of a tax return whenever in its judgment good cause exists.

History: En. Sec. 5, Ch. 166, L. 1933; re-en. Sec. 2303.1, R.C.M. 1935; amd. Sec. 1, Ch. 243, L. 1969; amd. Sec. 62, Ch. 516, L. 1973; R.C.M. 1947, 84-1509; (5)En. Sec. 2, Ch. 673, L. 1983; amd. Sec. 1, Ch. 451, L. 1987; amd. Sec. 1, Ch. 86, L. 1991; amd. Sec. 1, Ch. 369, L. 1997; amd. Sec. 1, Ch. 124, L. 2003; amd. Sec. 13, Ch. 594, L. 2005; amd. Sec. 7, Ch. 269, L. 2011.

15-31-142. Reports upon merger of corporations. If any corporation shall acquire, either directly, indirectly, or by merger or consolidation, the major portion of the actively employed assets of another corporation or of corporations doing any business in this state during any year or shall merge or consolidate another corporation, it shall within 30 days after such acquisition, merger, or consolidation file a report and include therein a statement showing its own and the consolidated entire net income of all such corporations for preceding calendar or fiscal years to the extent that all such income has not been used or included in measuring a corporation excise tax to this state. It shall, in any event, be liable for and pay all taxes that would have been due and payable by the corporation or corporations on or before the first day of January next succeeding had the corporation or corporations whose assets were acquired or which were merged or consolidated continued in business and as though there had been no interruption or change of the business thereof or discontinuance of the privilege of doing business. It shall also include in its own next annual return, in addition to its own entire net income, so much of the entire net income of corporations whose assets it acquired or which were merged or consolidated as shall not have been used or included in measuring a corporation excise tax to this state and shall be taxed upon such combined entire net income for the year to ensue.

History: En. Sec. 6, Ch. 166, L. 1933; re-en. Sec. 2303.2, R.C.M. 1935; R.C.M. 1947, 84-1510.

15-31-143. Return and payment on corporate dissolution. (1) Each corporation doing business in Montana shall pay an excise tax for the exercise of that privilege, and the amount of the excise tax must be based upon the total taxable net income of a corporation during the entire period of time that it is engaged in business in this state. No remission of that obligation for the last year in which a corporation engages in business in Montana was intended by the original enactment of this section.

(2) Each corporation that is dissolved or ceases to do business in Montana shall, upon the dissolution or cessation of business, make a return and pay the corporate income tax determined on the basis of its net income for the final period in which it did business in this state at the rate provided in 15-31-121 and 15-31-122, in addition to all other corporate income taxes for which the corporation may then be liable.

History: En. Sec. 7, Ch. 166, L. 1933; re-en. Sec. 2303.3, R.C.M. 1935; amd. Sec. 1, Ch. 67, L. 1943; amd. Sec. 1, Ch. 60, L. 1963; R.C.M. 1947, 84-1511; amd. Sec. 1, Ch. 69, L. 1999; amd. Sec. 19, Ch. 268, L. 2013.

15-31-144 through 15-31-149 reserved.

15-31-150. Repealed. Sec. 3, Ch. 399, L. 2019.

History: En. Sec. 1, Ch. 444, L. 1999; amd. Sec. 31, Ch. 114, L. 2003; amd. Sec. 1, Ch. 123, L. 2011; amd. Sec. 11, Ch. 55, L. 2015; amd. Sec. 2, Ch. 132, L. 2015.

15-31-151. Credit for preservation of historic buildings. (1) (a) There is allowed as a credit against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed for qualified rehabilitation expenditures, with respect to any certified historic building located in Montana, as provided in 26 U.S.C. 47 or as that section may be renumbered or amended.

(b) The amount of the credit allowed for a tax year is 25% of the amount of the credit determined under 26 U.S.C. 47(a)(2) or as that section may be renumbered or amended.

(2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to the 7 succeeding tax years. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first.

(3) If the credit under this section is claimed by a small business corporation, as defined in 15-30-3301, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes.

History: En. Sec. 1, Ch. 545, L. 1997.

15-31-152. Repealed. Sec. 3, Ch. 309, L. 2009.

History: En. Sec. 17, Ch. 537, L. 2005.

15-31-153 through 15-31-157 reserved.

15-31-158. *(Temporary)* **Credit for providing supplemental funding to public schools — corporate tax credit — innovative educational program.** There is a credit against tax liability under this chapter for a donation made to the educational improvement account as provided in 15-30-3110. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 20, Ch. 457, L. 2015.

15-31-159. *(Temporary)* **Qualified education corporate credit for contributions to student scholarship organization.** There is a credit against tax liability under this chapter for a charitable donation made to a student scholarship organization as provided in 15-30-3111. *(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021.)*

History: En. Sec. 21, Ch. 457, L. 2015.

15-31-160 reserved.

15-31-161. Credit for contribution by corporations to qualified endowment — recapture of credit — deduction included as income. (1) A corporation is allowed a credit in an amount equal to 20% of a charitable gift against the taxes otherwise due under 15-31-101 for charitable contributions made to a qualified endowment, as defined in 15-30-2327. The maximum credit that may be claimed by a corporation for contributions made from all sources in a year under this section is $15,000. The credit allowed under this section may not exceed the corporate taxpayer's income tax liability. The credit allowed under this section may not be claimed by a corporation if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-31-114. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(2) If during any tax year a charitable gift is recovered by the corporation, the corporation shall:

(a) include as income the amount deducted in any prior year that is attributable to the charitable gift to the extent that the deduction reduced the taxpayer's corporate income tax or alternative corporate income tax; and

(b) increase the amount of tax due under 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken.

History: En. Sec. 3, Ch. 537, L. 1997; amd. Sec. 3, Ch. 226, L. 2001; amd. Secs. 5, 6, Ch. 24, Sp. L. August 2002; amd. Sec. 3, Ch. 4, L. 2005; amd. Sec. 20, Ch. 268, L. 2013; amd. Sec. 3, Ch. 690, L. 2023.

15-31-162. Small business corporation, partnership, and limited liability company credit for contribution to qualified endowment — recapture of credit — deduction included as income. (1) A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed

to shareholders, partners, or members of a limited liability company in the same proportion used to report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or a member of a limited liability company may claim in a year is $15,000. The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(2) (a) If during any tax year a charitable gift is recovered by the small business corporation, partnership, or limited liability company, the entity shall include as income the amount deducted in any prior year that is attributable to the charitable gift.

(b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken.

History: En. Sec. 4, Ch. 537, L. 1997; amd. Sec. 4, Ch. 226, L. 2001; amd. Secs. 7, 8, Ch. 24, Sp. L. August 2002; amd. Sec. 4, Ch. 4, L. 2005; amd. Sec. 28, Ch. 503, L. 2021; amd. Sec. 4, Ch. 690, L. 2023.

15-31-163. Capital gain exclusion from sale of mobile home park. (1) Any capital gains income realized from the sale or exchange of a mobile home park as defined in 70-33-103 is excluded from Montana taxable income or gross income under chapter 30 or 31.

(2) To qualify for the exclusion under this section, the sale must be made to:

(a) a tenants' association or a mobile home park residents' association;

(b) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code that purchases a mobile home park on behalf of tenants' association or mobile home park residents' association;

(c) a county housing authority created under Title 7, chapter 15, part 21; or

(d) a municipal housing authority created under Title 7, chapter 15, parts 44 and 45.

(3) A corporation, an individual, a partnership, an S. corporation, or a disregarded entity qualifies for the exclusion under this section. If the exclusion allowed under this section is taken by a partnership, an S. corporation, or a disregarded entity, the exclusion must be attributed to shareholders, partners, or other owners using the same proportion used to report the partnership's, S. corporation's, or disregarded entity's income or loss for Montana income tax purposes.

(4) For the purpose of this section, "tenants' association" or "mobile home park residents' association" means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

(5) Property subject to an income or corporate tax exclusion under this section is not eligible for a property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park.

History: En. Sec. 1, Ch. 389, L. 2009; amd. Sec. 3, Ch. 437, L. 2021; amd. Sec. 29, Ch. 503, L. 2021.

15-31-164. Notification of mobile home park owners. (1) The department shall annually provide a list of the names and addresses of mobile home park owners to the board of housing provided for in 2-15-1814 for the purposes of this section.

(2) The board of housing shall annually and as necessary send notifications to mobile home park owners that facilitates, supports, and incentivizes mobile home park owners to utilize the benefits available pursuant to 15-31-163 and other benefits and reasons to sell a mobile home park to a tenants' association, a mobile home park residents' association, or a nonprofit organization.

(3) Costs associated with the mailing of notices required in subsection (2) may be paid for using funds available in the account provided for in 15-31-165.

(4) The provisions of 2-6-1017 do not apply to the requirements of this section.

History: En. Sec. 1, Ch. 437, L. 2021.

15-31-165. Account for notification of mobile home park owners. (1) There is a special revenue account within the state special revenue fund established in 17-2-102 for the notification of mobile home park owners as required in 15-31-164.

(2) There must be deposited in the account all monetary contributions, gifts, and donations for the purposes of providing the notification required in 15-31-164.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the board of housing established in 2-15-1814 and may only be used for those purposes provided in this section.

History: En. Sec. 2, Ch. 437, L. 2021.

15-31-166 through 15-31-169 reserved.

15-31-170. Terminated. Sec. 7, Ch. 411, L. 2001.

History: En. Sec. 2, Ch. 411, L. 2001.

15-31-171. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 3, Ch. 375, L. 2007; amd. Sec. 2, Ch. 388, L. 2015.

15-31-172. Small business corporation — deduction for donation of computer equipment to schools. A small business corporation, as defined in 15-30-3301, is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(1) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(2) the property is not transferred by the donee in exchange for money, other property, or services;

(3) the electing small business corporation receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2); and

(4) the deduction allowed in this section is in lieu of the deduction allowed for charitable contributions.

History: En. Sec. 2, Ch. 447, L. 1983; amd. Sec. 3, Ch. 807, L. 1991; amd. Sec. 9, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); Sec. 15-30-126, MCA 2007; redes. 15-31-172 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 11, Ch. 53, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 11, Ch. 53, L. 2025. Amendment effective October 1, 2025.

15-31-173. Tax credit for hiring registered apprentices or veteran apprentices. (1) There is a tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to 39-6-109 when a taxpayer employs a registered apprentice or registered veteran apprentice who works in Montana. The credit is administered as provided in 15-30-2357, 39-6-109, and this section.

(2) If the credit allowed under this section is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

History: En. Sec. 3, Ch. 380, L. 2017.

15-31-174. *(Temporary)* **Corporate income tax credit for trades education and training.** (1) There is a tax credit against the taxes otherwise imposed by 15-31-101, 15-31-121, and 15-31-122 that is allowable in the amount established pursuant to 15-30-2359 for qualified education and training expenses incurred by an employer for the benefit of an employee. The credit is administered as provided in 15-30-2359 and this section.

(2) If the credit allowed under 15-30-2359 and this section is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss. *(Terminates December 31, 2028—sec. 2, Ch. 576, L. 2023.)*

History: En. Sec. 2, Ch. 248, L. 2021.

15-31-175. Grow Montana jobs — annual job growth incentive tax credit. (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to 15-30-2361 when a taxpayer

hires qualifying new employees as defined in 39-11-404 in the state. The credit is administered as provided in 15-30-2361, 39-11-404, and this section.

(2) If the credit allowed under this section is claimed by a small business corporation as defined in 15-30-3301 or a partnership, the credit must be attributed to shareholders or partners using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes.

History: En. Secs. 3, 6, 9, 12, 15, Ch. 550, L. 2021; amd. Sec. 3, Ch. 751, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 751, L. 2025. Amendment effective October 1, 2025.

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated this section December 31, 2028. Effective October 1, 2025.

Part 2
Small Business Corporations (Renumbered and Repealed)

15-31-201. Renumbered 15-30-1101. Sec. 16(2), Ch. 143, L. 2001.

15-31-202. Repealed. Sec. 17, Ch. 143, L. 2001.

History: En. Sec. 2, Ch. 122, L. 1959; amd. Sec. 53, Ch. 516, L. 1973; amd. Sec. 1, Ch. 34, L. 1977; amd. Sec. 2, Ch. 405, L. 1977; R.C.M. 1947, 84-1501.2; amd. Sec. 22, Ch. 581, L. 1979; amd. Sec. 2, Ch. 667, L. 1983; amd. Sec. 7, Ch. 807, L. 1991; amd. Sec. 15, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 1, Ch. 65, L. 1997.

15-31-203. Renumbered 15-30-1121. Sec. 16(2), Ch. 143, L. 2001.

15-31-204. Repealed. Sec. 3, Ch. 65, L. 1997.

History: En. Sec. 2, Ch. 11, Ex. L. 1969; R.C.M. 1947, 84-1501.5; amd. Sec. 8, Ch. 807, L. 1991; amd. Sec. 16, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994).

15-31-205. Repealed. Sec. 5, Ch. 667, L. 1983.

History: En. 84-1501.1 by Sec. 1, Ch. 122, L. 1959; amd. Sec. 1, Ch. 405, L. 1977; R.C.M. 1947, 84-1501.1(c).

15-31-206. Repealed. Sec. 5, Ch. 667, L. 1983.

History: En. 84-1501.1 by Sec. 1, Ch. 122, L. 1959; amd. Sec. 1, Ch. 405, L. 1977; R.C.M. 1947, 84-1501.1(d).

15-31-207. Repealed. Sec. 5, Ch. 667, L. 1983.

History: En. 84-1501.1 by Sec. 1, Ch. 122, L. 1959; amd. Sec. 1, Ch. 405, L. 1977; R.C.M. 1947, 84-1501.1(e).

15-31-208. Repealed. Sec. 10, Ch. 807, L. 1991.

History: En. Sec. 3, Ch. 667, L. 1983; amd. Sec. 2, Ch. 534, L. 1989.

15-31-209. Repealed. Sec. 17, Ch. 143, L. 2001.

History: En. Sec. 4, Ch. 667, L. 1983.

Part 3
Allocation and Apportionment of Income

15-31-301. Corporations subject to allocation and apportionment. (1) Any corporation having income from business activity which is taxable both within and without this state shall allocate and apportion its net income as provided in this part.

(2) A corporation engaged in a unitary business within and without Montana must apportion its apportionable income as provided for under 15-31-305. A business is unitary when the operation of the business within the state is dependent upon or contributory to the operation of the business outside the state or if the units of the business within and without the state are closely allied and not capable of separate maintenance as independent businesses.

(3) A corporation not engaged in a unitary business must allocate its apportionable income by means of separate accounting methods, provided its books and records are so kept that the income and expenses attributable to business operations within the state can be properly segregated from total income and expense. If the corporation's books and records do not permit such proper segregation, its apportionable income must be apportioned according to the provisions of 15-31-305.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(1); amd. Sec. 3, Ch. 268, L. 2017.

15-31-302. Definitions. (1) "Apportionable income" means:

(a) all income that is apportionable under the constitution of the United States and is not allocated under the laws of this state, including:

(i) income arising from transactions and activity in the regular course of the taxpayer's trade or business; and

(ii) income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; and

(b) any income that would be allocable to this state under the constitution of the United States but that is apportioned rather than allocated pursuant to the laws of this state.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(4) "Nonapportionable income" means all income other than apportionable income.

(5) "Receipts" means all gross receipts of the taxpayer not allocated under 15-31-304.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(2); amd. Sec. 4, Ch. 268, L. 2017.

15-31-303. When taxable in another state. For the purposes of allocation and apportionment of income, a corporation is taxable in another state as provided in Article IV, subsection (3), of 15-1-601.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(3); amd. Sec. 10, Ch. 20, L. 1985; amd. Sec. 5, Ch. 268, L. 2017.

15-31-304. Allocation of nonapportionable income. Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonapportionable income, must be allocated as provided in Article IV, subsections (4) through (8), of 15-1-601.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(4) thru (8); amd. Sec. 6, Ch. 268, L. 2017.

15-31-305. Apportionment of apportionable income. All apportionable income must be apportioned to this state as provided in Article IV, subsection (9), of 15-1-601.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(9); amd. Sec. 7, Ch. 268, L. 2017.

15-31-306. Repealed. Sec. 10, Ch. 51, L. 2023; Sec. 11, Ch. 51, L. 2023.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(10); amd. Sec. 8, Ch. 268, L. 2017.

15-31-307. Repealed. Sec. 10, Ch. 51, L. 2023; Sec. 11, Ch. 51, L. 2023.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(11), (12); amd. Sec. 9, Ch. 268, L. 2017.

15-31-308. Repealed. Sec. 10, Ch. 51, L. 2023; Sec. 11, Ch. 51, L. 2023.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(13); amd. Sec. 10, Ch. 268, L. 2017.

15-31-309. Repealed. Sec. 10, Ch. 51, L. 2023; Sec. 11, Ch. 51, L. 2023.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(14); amd. Sec. 11, Ch. 268, L. 2017.

15-31-310. Definition of receipts factor. The receipts factor is provided for in Article IV, subsection (10), of 15-1-601.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(15); amd. Sec. 12, Ch. 268, L. 2017; amd. Sec. 5, Ch. 51, L. 2023.

15-31-311. Receipts factor for receipts in this state. (1) Receipts from the sale of tangible personal property are in this state as provided for in Article IV, subsection (11), of 15-1-601.

(2) Receipts, other than receipts provided for in subsection (1), are in this state as provided for in Article IV, subsection (12), of 15-1-601.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(16), (17); amd. Sec. 13, Ch. 268, L. 2017; amd. Sec. 6, Ch. 51, L. 2023.

15-31-312. Apportionment formula — unitary business provisions. (1) If the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting, provided the taxpayer's activities in this state are separate and distinct from its operations conducted outside this state and are not a part of a unitary business operation conducted within and without this state; or

(b) the application of the provisions of Article IV, subsections (13)(a)(ii) through (13)(a)(iv), of 15-1-601.

(2) If the allocation and apportionment provisions of this part do not fairly represent the extent of business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or activity, Article IV, subsection (13)(b), of 15-1-601 applies.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(18); amd. Sec. 14, Ch. 268, L. 2017; amd. Sec. 7, Ch. 51, L. 2023.

15-31-313. Rules. The department of revenue shall prescribe regulations to carry out this part and shall publish such regulations and amendments thereto.

History: En. Sec. 3, Ch. 166, L. 1933; re-en. Sec. 2297.1, R.C.M. 1935; amd. Sec. 1, Ch. 219, L. 1957; amd. Sec. 1, Ch. 143, L. 1969; amd. Sec. 55, Ch. 516, L. 1973; amd. Sec. 2, Ch. 5, L. 1974; R.C.M. 1947, 84-1503(19).

15-31-314 through 15-31-320 reserved.

15-31-321. Definitions. As used in 15-31-321 through 15-31-326, unless the context requires otherwise, the following definitions apply:

(1) "Affiliated corporation" means a United States parent corporation and any subsidiary of which more than 50% of the voting stock is owned directly or indirectly by another corporate member of the water's-edge combined group.

(2) "United States" means the 50 states of the United States, the District of Columbia, and any territory or possession of the United States.

(3) "Water's-edge combined group" means all corporations or entities included in the election of a taxpayer under 15-31-322.

History: En. Sec. 1, Ch. 616, L. 1987; amd. Sec. 1, Ch. 750, L. 2023.

15-31-322. Water's-edge election. Notwithstanding any other provisions of law, a taxpayer subject to the taxes imposed under this chapter may apportion its income under this section. A return under a water's-edge election must include the income and apportionment factors of the following affiliated corporations only:

(1) a corporation incorporated in the United States in a unitary relationship with the taxpayer and eligible to be included in a federal consolidated return as described in 26 U.S.C. 1501 through 1505 that has more than 20% of its payroll and property assignable to locations inside the United States. For purposes of determining eligibility for inclusion in a federal consolidated return under this subsection (1), the 80% stock ownership requirements of 26

U.S.C. 1504 must be reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by an includable corporation.

(2) domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927;

(3) export trade corporations, as described in 26 U.S.C. 970 and 971;

(4) foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897; or

(5) a corporation incorporated outside the United States if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if more than 20% of the average of its payroll and property is assignable to a location inside the United States.

History: En. Sec. 2, Ch. 616, L. 1987; amd. Sec. 3, Ch. 521, L. 2003; amd. Sec. 1, Ch. 11, L. 2009; amd. Sec. 12, Ch. 163, L. 2019; amd. Sec. 2, Ch. 750, L. 2023.

15-31-323. Apportionment factors. For purposes of 15-31-322, the location of payroll and property is determined under the individual state's laws and regulations that set forth the apportionment formulas used to assign net income subject to taxes on or measured by net income. If a state does not impose a tax on or measured by net income, apportionment is determined under this chapter.

History: En. Sec. 3, Ch. 616, L. 1987; amd. Sec. 4, Ch. 521, L. 2003; amd. Sec. 3, Ch. 750, L. 2023.

15-31-324. Water's-edge election period — consent — change of election. (1) A water's-edge election may be made by a taxpayer and is effective only if every affiliated corporation subject to the taxes imposed under this chapter consents to the election. Consent by the common parent of an affiliated group constitutes consent of all members of the group. An affiliated corporation that becomes subject to taxes under this chapter after the water's-edge election is considered to have consented to the election. The election must disclose the identity of the taxpayer and the identity of any affiliated corporation in which the taxpayer owns directly or indirectly more than 50% of the voting stock of the affiliated corporation.

(2) Except as provided in subsection (3), each water's-edge election must be for 3-year renewable periods.

(3) A water's-edge election may be changed by a taxpayer before the end of each 3-year period only with the permission of the department. In granting a change of election, the department shall impose reasonable conditions that are necessary to prevent the avoidance of tax or clearly reflect income for the election period prior to the change.

History: En. Sec. 4, Ch. 616, L. 1987; amd. Sec. 5, Ch. 521, L. 2003; amd. Sec. 4, Ch. 750, L. 2023.

15-31-325. Treatment of dividends. For purposes of 15-31-321 through 15-31-326, dividends must be treated as follows:

(1) Dividends received from corporations incorporated outside the United States, to the extent taxable, are considered income subject to apportionment.

(2) The after-tax net income of United States corporations excluded from eligibility as affiliated corporations under 15-31-322 and possession corporations described in sections 931 through 934 and 936 of the Internal Revenue Code are considered dividends received from corporations incorporated outside the United States.

(3) Amounts included in income under sections 951 through 962 and 964 of the Internal Revenue Code are considered dividends from corporations incorporated outside the United States.

(4) Eighty percent of all dividends apportionable under this section must be excluded from income subject to apportionment.

(5) "Deemed" distributions, as set forth in section 78 of the Internal Revenue Code, and corresponding amounts with respect to dividends considered received under subsection (2) of this section must be excluded from the income of the water's-edge combined group.

(6) The dividends apportionable under this section are in lieu of any expenses attributable to dividend income.

(7) A dividend from a corporation required to be combined in the water's-edge combined group must be eliminated from the calculation of apportionable income.

History: En. Sec. 5, Ch. 616, L. 1987; amd. Sec. 5, Ch. 750, L. 2023.

15-31-326. Domestic disclosure spreadsheet. The department may require a taxpayer making a water's-edge election to submit within 6 months after the taxpayer files its federal income tax return a domestic disclosure spreadsheet to provide full disclosure of the income reported to each state for the year, the tax liability for each state, the method used for allocating or apportioning income to the states, and the identity of the water's-edge corporate group and those of its United States affiliated corporations.

History: En. Sec. 6, Ch. 616, L. 1987; amd. Sec. 6, Ch. 521, L. 2003; amd. Sec. 6, Ch. 750, L. 2023.

Part 4
Alternative Corporate Income Tax

15-31-401. Application of corporate income tax and alternative corporate income tax. (1) It is the intent of the legislature that the corporate income tax must be applied to all corporations subject to taxation under part 1 of this chapter. Except as provided in subsection (2), the alternative corporate income tax provided by this part must be applied to corporations that are not taxable under part 1 of this chapter but are taxable under an income tax.

(2) During its first 5 taxable years of activity in Montana, the net income earned from research and development activities by a research and development firm as described in 15-31-103 is not subject to either the corporate income tax provided in part 1 of this chapter or to the alternative corporate income tax provided in this part.

History: En. Sec. 1, Ch. 82, L. 1971; R.C.M. 1947, 84-6901; amd. Sec. 5, Ch. 659, L. 1987; amd. Sec. 21, Ch. 268, L. 2013.

15-31-402. Short title — administration of part. This part may be cited as the "Alternative Corporate Income Tax". The department shall administer the provisions of this part.

History: En. Sec. 2, Ch. 82, L. 1971; amd. Sec. 255, Ch. 516, L. 1973; R.C.M. 1947, 84-6902; amd. Sec. 22, Ch. 268, L. 2013.

15-31-403. Rate of tax imposed — income from sources within state defined — alternative tax. (1) Except as provided in 15-31-401, there is hereby imposed upon every corporation for each taxable year an income tax at the rate specified in 15-31-121 and 15-31-122 upon its net income derived from sources within this state for taxable years beginning after December 31, 1970, other than income for any period for which the corporation is subject to taxation under part 1 of this chapter, according to or measured by its net income.

(2) Income from sources within this state includes income from tangible or intangible property located in or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce, but does not include interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located within the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(3) Pursuant to Article III, section 2, of 15-1-601, any corporation required to file a return under this part and whose only activity in Montana consists of making sales and which does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana does not exceed $100,000 may elect to pay a tax of 1/2 of 1% of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise imposed under this section. The gross volume of sales made in Montana during the taxable year shall be determined according to Article IV, sections 11 and 12, of 15-1-601.

History: En. Sec. 3, Ch. 82, L. 1971; amd. Sec. 1, Ch. 367, L. 1973; amd. Sec. 1, Ch. 247, L. 1977; R.C.M. 1947, 84-6903; amd. Sec. 6, Ch. 659, L. 1987; amd. Sec. 8, Ch. 51, L. 2023.

Cross-References

Multistate Tax Compact, Title 15, ch. 1, part 6.

15-31-404. Offset for corporate income taxes — alternative corporate income tax collected considered corporate income tax. There must be offset against the alternative corporate income tax imposed for any period the amount of any tax imposed against the corporation for the same period under parts 1, 3, and 5 of this chapter. If taxes, interest, and penalties have been or will be assessed against, paid by, or collected from a corporation under

this part and the assessment, payment, or collection should have been made under parts 1, 3, and 5 of this chapter, the taxes, interest, and penalties must be considered as having been assessed, paid, or collected under parts 1, 3, and 5 as of the date they were made.

History: En. Sec. 4, Ch. 82, L. 1971; R.C.M. 1947, 84-6904; amd. Sec. 32, Ch. 114, L. 2003; amd. Sec. 23, Ch. 268, L. 2013.

15-31-405. Information return — period for assessment of tax. When a corporation formerly subject to tax under part 1 of this chapter becomes subject to tax under this part, it shall file an information return for the income year in which the change occurs. The tax for the year in which the change occurs will be assessed under parts 1, 3, and 5 and not under this part. For years subsequent to the year in which the change occurs, the tax will be assessed under this part.

History: En. Sec. 5, Ch. 82, L. 1971; R.C.M. 1947, 84-6905; amd. Sec. 33, Ch. 114, L. 2003.

15-31-406. Corporate income tax sections incorporated by reference. The provisions of the following sections of this chapter are incorporated into this part by reference and made a part of this part:

(1) that part of 15-31-101 that defines the term "corporation" and 15-31-102, which specifies the classes of organizations whose income may not be taxed;

(2) sections 15-31-111 through 15-31-114, 15-31-117 through 15-31-119, 15-31-141, 15-31-142, 15-31-301 through 15-31-313, 15-31-501 through 15-31-506, 15-31-509, 15-31-511, 15-31-525, 15-31-526, 15-31-531, 15-31-532, 15-31-541, and 15-31-543, except that the term "gross income" must be construed as excluding the net amount of interest income from valid obligations of the United States and except that wherever the words "tax", "corporate income tax", "license tax", "license fee", "corporation excise tax", or similar words appear, referring to the tax imposed under part 1 of this chapter, there is substituted the words "alternative corporate income tax".

History: En. Sec. 6, Ch. 82, L. 1971; R.C.M. 1947, 84-6906; amd. Sec. 14, Ch. 439, L. 1981; amd. Sec. 50, Ch. 370, L. 1987; amd. Sec. 2, Ch. 538, L. 1989; amd. Sec. 2, Ch. 135, L. 1993; amd. Sec. 24, Ch. 268, L. 2013.

15-31-407. Employment of personnel — rules. The department of revenue may employ personnel and adopt rules and forms as the department finds necessary to place this part in operation and to carry out its provisions.

History: En. Sec. 7, Ch. 82, L. 1971; amd. Sec. 258, Ch. 516, L. 1973; R.C.M. 1947, 84-6907.

15-31-408. Repealed. Sec. 66, Ch. 422, L. 1997.

History: En. Sec. 8, Ch. 82, L. 1971; R.C.M. 1947, 84-6908.

Part 5
Administration and Collection

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-31-501. Department rules — conformance with Internal Revenue Code. (1) The department of revenue shall prescribe forms for returns and notices and other regulations as may be necessary for the purpose of carrying into effect the provisions of this chapter.

(2) If a term is not defined in this chapter, the term has the same meaning as it does when used in a comparable context in the Internal Revenue Code.

History: En. Sec. 8, Ch. 79, L. 1917; re-en. Sec. 2303, R.C.M. 1921; amd. Sec. 4, Ch. 146, L. 1923; amd. Sec. 4, Ch. 166, L. 1933; re-en. Sec. 2303, R.C.M. 1935; amd. Sec. 5, Ch. 186, L. 1963; amd. Sec. 60, Ch. 516, L. 1973; R.C.M. 1947, 84-1508(part); amd. Sec. 2, Ch. 222, L. 2007.

15-31-502. Assessment and payment of tax — estimated tax payment — amount of required installments. (1) All taxpayers shall compute the amount of tax payable under this chapter and shall remit the amount to the department of revenue on or before the 15th day of the 5th month following the close of the tax period.

(2) (a) A corporation shall make estimated tax payments if its annual estimated tax is $5,000 or more. Subject to the due date provision in 15-31-111(2)(b), the estimated payments must be made in installments, as follows, if the $5,000 threshold is met or exceeded:

(i) For a corporation taxed on a calendar-year basis: For the following required installments the due date is:

1st	April 15
2nd	June 15
3rd	September 15
4th	December 15

(ii) For a corporation taxed on a fiscal-year basis: For the following required installments the due date is:

1st	15th day of the 4th month
2nd	15th day of the 6th month
3rd	15th day of the 9th month
4th	15th day of the 12th month

(b) Except as provided in 15-31-510, the amount of any required installment is 25% of the required annual payment. The required annual payment is the lesser of:

(i) 80% of the tax shown on the return for the tax year or, if a return is not filed, 80% of the tax for that year; or

(ii) 100% of the tax shown on the return of the corporation for the preceding tax year if the preceding tax year was a period of 12 months and if the corporation filed a return for that year.

(3) The application of this section to tax years of less than 12 months must be in accordance with rules adopted by the department.

(4) At the election of the corporation, any installment of the estimated tax may be paid before the date prescribed for its payment.

History: En. Sec. 5, Ch. 79, L. 1917; re-en. Sec. 2300, R.C.M. 1921; amd. Sec. 2, Ch. 146, L. 1923; re-en. Sec. 2300, R.C.M. 1935; amd. Sec. 1, Ch. 209, L. 1945; amd. Sec. 1, Ch. 102, L. 1961; amd. Sec. 4, Ch. 186, L. 1963; amd. Sec. 1, Ch. 324, L. 1969; amd. Sec. 67, Ch. 405, L. 1973; R.C.M. 1947, 84-1505(1); amd. Sec. 4, Ch. 634, L. 1979; amd. Sec. 1, Ch. 182, L. 1981; amd. Sec. 2, Ch. 9, Sp. L. June 1989; amd. Sec. 1, Ch. 92, L. 1993; amd. Sec. 8, Ch. 269, L. 2011.

15-31-503. Deficiency assessment — notice — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest on any deficiency assessment must be calculated from the date specified in 15-31-502 for payment of the tax. Penalty and interest must be added to the deficiency as provided in 15-1-216. A certificate by the department of the mailing of the notice specified in subsection (1) is prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notice.

History: En. Sec. 1, Ch. 186, L. 1963; amd. Sec. 68, Ch. 405, L. 1973; R.C.M. 1947, 84-1508.1(a); amd. Sec. 10, Ch. 811, L. 1991; amd. Sec. 14, Ch. 594, L. 2005.

15-31-504. Estimated tax on failure to file. (1) If any taxpayer fails to make return as herein required, the department of revenue is authorized to make an estimate of the taxes due from such taxpayer from any information in its possession.

(2) For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of net income of any corporations where information has been obtained, the department shall also have power to examine or to cause to have examined by any agent or representative designated by it for that purpose any books, papers, records, or memoranda bearing upon the matters required to be included in the return and may require the attendance of any officer or employee of the corporation rendering such return or the attendance of any other person having knowledge in the premises and may take testimony and require proof material for its information.

History: En. Sec. 13, Ch. 166, L. 1933; re-en. Sec. 2303.9, R.C.M. 1935; amd. Sec. 2, Ch. 142, L. 1969; amd. Sec. 67, Ch. 516, L. 1973; R.C.M. 1947, 84-1517(1), (2).

15-31-505. Subpoenas — investigation of income, and shifting. (1) Jurisdiction is hereby conferred upon the district court of the first judicial district of the state of Montana in and for the county of Lewis and Clark to compel attendance of witnesses to testify before the department of revenue, together with the production of books and such other testimony by appropriate process.

(2) When the department has reason to believe that the business of any corporation is so conducted as either directly or indirectly to distort the true net income of the corporation and the net income properly attributable to this state, whether by the arbitrary shifting of income through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another corporation carrying on business under a substantially common control, it may require the disclosure of such facts as it deems necessary for the proper computation of the entire net income and the net income properly attributable to this state, and in determining the same, the department shall have regard to the fair profits which would normally arise from the conduct of the business.

History: En. Sec. 8, Ch. 79, L. 1917; re-en. Sec. 2303, R.C.M. 1921; amd. Sec. 4, Ch. 146, L. 1923; amd. Sec. 4, Ch. 166, L. 1933; re-en. Sec. 2303, R.C.M. 1935; amd. Sec. 5, Ch. 186, L. 1963; amd. Sec. 60, Ch. 516, L. 1973; R.C.M. 1947, 84-1508(part).

15-31-506. Copy of federal return required — report of amended federal return. Every corporation shall, upon request of the department of revenue, furnish a copy of its federal income tax return and the computation schedule filed for the taxable year or years that the department may specify in its request. Except as provided in 15-30-3403 or 15-30-3404, if the amount of a corporation's taxable income reported on its federal income tax return or the computation schedule filed for a tax year is changed or corrected by the United States internal revenue service or other competent authority, the corporation shall file an amended Montana return with the department within 180 days after the final determination date. Except as provided in 15-30-3404, a corporation filing an amended federal income tax return changing or correcting its taxable income for a tax year shall also file an amended Montana return with the department within 180 days after filing an amended federal income tax return.

History: En. Sec. 13, Ch. 166, L. 1933; re-en. Sec. 2303.9, R.C.M. 1935; amd. Sec. 2, Ch. 142, L. 1969; amd. Sec. 67, Ch. 516, L. 1973; R.C.M. 1947, 84-1517(3); amd. Sec. 3, Ch. 68, L. 1999; amd. Sec. 13, Ch. 108, L. 2021.

15-31-507. Repealed. Sec. 5, Ch. 135, L. 1993.

History: En. Sec. 7, Ch. 79, L. 1917; re-en. Sec. 2302, R.C.M. 1921; amd. Sec. 3, Ch. 146, L. 1923; re-en. Sec. 2302, R.C.M. 1935; amd. Sec. 59, Ch. 516, L. 1973; R.C.M. 1947, 84-1507.

15-31-508. Repealed. Sec. 5, Ch. 135, L. 1993.

History: En. Sec. 14, Ch. 166, L. 1933; re-en. Sec. 2303.10, R.C.M. 1935; amd. Sec. 68, Ch. 516, L. 1973; R.C.M. 1947, 84-1518.

15-31-509. Periods of limitation. (1) Except as otherwise provided in 15-31-544 and this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 3 years from the date that the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. When, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax may not apply when:

(a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax if the suspension of the limitation set forth in this section lasts:

(i) only as long as the suspension of the federal statute of limitation; or

(ii) until 1 year after the final determination date or the date an amended federal return is filed as a result of the suspension of the federal statute, whichever is the latest in time; or

(b) a taxpayer has failed to file an amended Montana return, as required by 15-31-506 or a federal adjustments report as provided in 15-30-3403 or 15-30-3404, until 3 years after the final determination date or the date the amended federal return was filed.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 3 years from the last day prescribed for filing the return or 1 year from the time the tax was paid, whichever is later, unless before the expiration of the period the taxpayer files a claim for the refund or credit or the department has determined the existence of the overpayment and has approved the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event a claim is not filed is automatically extended.

(3) Except for final federal adjustments required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of the adjustment, a taxpayer may file a claim for refund or credit of tax on or before the later of:

(a) the expiration of the period provided for in subsection (2), including any extensions; or

(b) 1 year from the date a federal adjustments report described in 15-30-3403 or 15-30-3404, as applicable, was due to the department, including any extensions.

(4) If a claim for refund or credit is based upon an overpayment attributable to a net loss carryback adjustment as provided in 15-31-119, in lieu of the 3-year period provided for in subsection (1), the period must be the period that ends with the expiration of the 15th day of the 41st month following the end of the tax year of the net loss that results in the carryback.

(5) If the year of the net operating loss is open under either state or federal waivers, the year to which the loss is carried back remains open for the purposes of the loss carryback and for 12 months following the expiration of the state or federal waiver, even though the claim would otherwise be barred under this section.

History: En. Sec. 2, Ch. 186, L. 1963; amd. Sec. 1, Ch. 142, L. 1969; amd. Sec. 61, Ch. 516, L. 1973; amd. Sec. 1, Ch. 101, L. 1974; R.C.M. 1947, 84-1508.2; amd. Sec. 11, Ch. 79, L. 1983; amd. Sec. 2, Ch. 222, L. 1983; amd. Sec. 3, Ch. 51, L. 1997; amd. Sec. 4, Ch. 68, L. 1999; amd. Sec. 2, Ch. 289, L. 2017; amd. Sec. 14, Ch. 108, L. 2021; amd. Sec. 2, Ch. 314, L. 2023.

15-31-510. Estimated payments — tax returns — penalty and interest. (1) A corporation that fails to make estimated payments according to the schedule provided in 15-31-502(2) is assessed interest as provided in 15-1-216 calculated as follows:

(a) The amount of underpayment is the amount of the required installment set forth in 15-31-502 that exceeds the amount, if any, of the installment paid on or before the last date prescribed for payment.

(b) Notwithstanding the provisions of subsection (1)(a), interest with respect to an underpayment of any installment may not be charged if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were an amount equal to 80% of the tax for the tax year, computed by placing on an annualized basis the taxable income:

(i) for the first 3 months of the tax year in the case of the installment required to be paid in the 4th month;

(ii) for the first 3 months or for the first 5 months of the tax year in the case of the installment required to be paid in the 6th month;

(iii) for the first 6 months or for the first 8 months of the tax year in the case of the installment required to be paid in the 9th month; and

(iv) for the first 9 months or for the first 11 months of the tax year in the case of the installment required to be paid in the 12th month of the tax year.

(c) For purposes of subsection (1)(b), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b); and

(ii) dividing the resulting amount by the number of months in the tax year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b).

(d) Notwithstanding the provisions of subsections (1)(a) through (1)(c), interest with respect to an underpayment of any installment may not be charged if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount for any installment:

(i) take the taxable income for all months during the tax year preceding the filing month;

(ii) divide the amount by the base period percentage for all months during the tax year preceding the filing month;

(iii) determine the tax on the amount calculated under subsection (1)(e)(ii); and

(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the tax year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding tax years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the tax year equals or exceeds 70%; and

(iv) the department may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) In addition to the interest assessed in subsection (1), if any tax due under this chapter is not paid when due as provided in 15-31-111, by reason of extension or otherwise, penalty and interest are added to the tax due as provided in 15-1-216.

History: En. Sec. 3, Ch. 9, Sp. L. June 1989; amd. Sec. 2, Ch. 92, L. 1993; amd. Sec. 2, Ch. 54, L. 1995; amd. Sec. 4, Ch. 51, L. 1997; amd. Sec. 12, Ch. 427, L. 1999; amd. Sec. 15, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-31-511. Confidentiality of tax records. (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in 15-30-2361; or

(f) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1);

(b) provide corporate income tax and alternative corporate income tax information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

(c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(d) exchange with the department of labor and industry:

(i) taxpayer and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

(ii) taxpayer and employee information necessary to administer the annual job growth incentive tax credit provided for in 15-30-2361, 15-31-175, and 39-11-404; and

(e) provide the department of public health and human services with the information necessary to verify, as required under 53-6-133, the income reported by an applicant for medical assistance.

(5) A person convicted of violating this section shall be fined not to exceed $500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

History: En. Sec. 1, Ch. 135, L. 1993; amd. Sec. 15, Ch. 595, L. 2005; amd. Sec. 4, Ch. 70, L. 2007; amd. Sec. 25, Ch. 268, L. 2013; amd. Sec. 2, Ch. 76, L. 2015; amd. Sec. 25, Ch. 457, L. 2015; amd. Sec. 4, Ch. 151, L. 2017; amd. Sec. 5, Ch. 380, L. 2017; amd. Sec. 10, Ch. 415, L. 2019; amd. Sec. 19, Ch. 550, L. 2021.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated the Ch. 415 amendments to this section on occurrence of a contingency. Effective March 27, 2025.

Termination Provision Repealed: Section 5, Ch. 751, L. 2025, repealed sec. 24, Ch. 550, L. 2021, and sec. 4, Ch. 391, L. 2023, which terminated the Ch. 550, L. 2021, amendments to this section December 31, 2028. Effective October 1, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

Cross-References

Restricted access to income and expense information, 15-8-120.

15-31-512 through 15-31-520 reserved.

15-31-521. Closing agreements. (1) The director of revenue or any person authorized in writing by the director is authorized to enter into an agreement with any taxpayer relating to the liability of the taxpayer in respect to the tax imposed by this chapter for any taxable period.

(2) Any agreement is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

History: En. 84-1526 by Sec. 1, Ch. 353, L. 1977; R.C.M. 1947, 84-1526; amd. Sec. 23, Ch. 581, L. 1979; amd. Sec. 174, Ch. 56, L. 2009.

15-31-522. When immediate payment demanded. If the department determines that the assessment or collection of the tax or a deficiency in tax due under any corporate income tax statute of Montana for any taxable period will be jeopardized in whole or in part by delay, it may mail notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the department may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once.

History: En. Sec. 1, Ch. 246, L. 1969; amd. Sec. 58, Ch. 516, L. 1973; R.C.M. 1947, 84-1505.2; amd. Sec. 26, Ch. 268, L. 2013.

15-31-523. Suspension or forfeiture on delinquency. (1) If a tax computed and levied under this chapter is not paid or if a return is not filed before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, must be suspended, and if the delinquent taxpayer is a foreign corporation, it forfeits its rights to do intrastate business in this state. If a domestic corporation fails for a period of 5 consecutive years either to file a return or to pay the corporate income tax, the department shall notify the corporation by mail addressed to the latest address on file in its office that the corporation will become dissolved if it fails to file all delinquent reports and pay all delinquent corporate income taxes within a period of 60 days after the mailing of the notice. If the delinquent reports are not made and all delinquent taxes are not paid before the expiration of the 60-day period, the department shall certify this fact to the secretary of state, and upon receipt of the certificate, the corporation must be dissolved and the secretary of state shall indicate, by the secretary of state's records, the dissolution.

(2) The department shall transmit the name of each corporation described in subsection (1) to the secretary of state, who shall immediately record the transmission in a manner that is available to the public. The suspension, forfeiture, or dissolution provided for in this section becomes effective immediately when the record is made, and the certificate of the secretary of state is conclusive evidence of the suspension, forfeiture, or dissolution.

History: En. Sec. 10, Ch. 166, L. 1933; re-en. Sec. 2303.6, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1947; amd. Sec. 64, Ch. 516, L. 1973; R.C.M. 1947, 84-1514; amd. Sec. 69, Ch. 575, L. 1981; amd. Sec. 175, Ch. 56, L. 2009; amd. Sec. 27, Ch. 268, L. 2013.

15-31-524. Reviver of corporation after suspension or forfeiture. A corporation that has suffered the suspension or forfeiture referred to in 15-31-523 may be relieved upon making application in writing supported by a certificate from the department showing that the required return has been made and filed and that the tax and interest and penalties have been paid, for which the suspension or forfeiture occurred. Application for reviver may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors. The application must be filed with the secretary of state and must be accompanied by a filing and recording fee of $15. If the application is made more than 1 year after the date the suspension or forfeiture occurred, the applicant shall pay twice the amount of the tax and penalties due the state for the tax year with respect to which the suspension or forfeiture occurred. Upon payment, the secretary of state shall issue a certificate of reviver for which the secretary of state shall collect a fee of $15, and upon issuance of the certificate, the applicant is revived. The reviver is without prejudice to any action, defense, or right that has accrued by reason of the original suspension or forfeiture. The certificate of reviver is prima facie evidence of the reviver. A certificate of reviver provided for in this section may be recorded in the office of the county clerk and recorder in any county of this state.

History: En. Sec. 11, Ch. 166, L. 1933; re-en. Sec. 2303.7, R.C.M. 1935; amd. Sec. 1, Ch. 49, L. 1947; amd. Sec. 15, Ch. 117, L. 1961; amd. Sec. 1, Ch. 52, L. 1967; amd. Sec. 65, Ch. 516, L. 1973; R.C.M. 1947, 84-1515; amd. Sec. 1, Ch. 156, L. 1987; amd. Sec. 176, Ch. 56, L. 2009.

15-31-525. Levy upon and sale of property. If any tax imposed by this chapter or any portion of such tax is not paid when due, the department of revenue may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

History: En. Sec. 5, Ch. 79, L. 1917; re-en. Sec. 2300, R.C.M. 1921; amd. Sec. 2, Ch. 146, L. 1923; re-en. Sec. 2300, R.C.M. 1935; amd. Sec. 1, Ch. 209, L. 1945; amd. Sec. 1, Ch. 102, L. 1961; amd. Sec. 4, Ch. 186, L. 1963; amd. Sec. 1, Ch. 324, L. 1969; amd. Sec. 67, Ch. 405, L. 1973; R.C.M. 1947, 84-1505(2); amd. Sec. 15, Ch. 439, L. 1981.

15-31-526. Action by attorney general. Action may be brought by the attorney general of the state at the instance of the department, in the name of the state, to recover the amount of any taxes, penalties, and interest due under this chapter.

History: En. Sec. 5, Ch. 79, L. 1917; re-en. Sec. 2300, R.C.M. 1921; amd. Sec. 2, Ch. 146, L. 1923; re-en. Sec. 2300, R.C.M. 1935; amd. Sec. 1, Ch. 209, L. 1945; amd. Sec. 1, Ch. 102, L. 1961; amd. Sec. 4, Ch. 186, L. 1963; amd. Sec. 1, Ch. 324, L. 1969; amd. Sec. 67, Ch. 405, L. 1973; R.C.M. 1947, 84-1505(3); amd. Sec. 12, Ch. 79, L. 1983.

15-31-527. Repealed. Sec. 54, Ch. 439, L. 1981.

History: En. Sec. 1, Ch. 53, L. 1967; amd. Sec. 57, Ch. 516, L. 1973; R.C.M. 1947, 84-1505.1.

15-31-528 through 15-31-530 reserved.

15-31-531. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on delinquent taxes, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(4) A payment not made incident to a bona fide and orderly discharge of an actual corporate income tax liability or one reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable.

History: En. Sec. 1, Ch. 186, L. 1963; amd. Sec. 68, Ch. 405, L. 1973; R.C.M. 1947, 84-1508.1(part); amd. Sec. 2, Ch. 589, L. 1981; amd. Sec. 16, Ch. 594, L. 2005; amd. Sec. 28, Ch. 268, L. 2013.

Cross-References

Interest not allowed on refund resulting from net operating loss carryback or carryover, 15-31-114.

15-31-532. Application for refund — appeal from denial. If the department of revenue disallows any claim for refund, it shall notify the taxpayer as provided in 15-1-211. The taxpayer may seek review of the decision pursuant to 15-1-211.

History: En. Sec. 1, Ch. 186, L. 1963; amd. Sec. 68, Ch. 405, L. 1973; R.C.M. 1947, 84-1508.1(part); amd. Sec. 11, Ch. 811, L. 1991.

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

15-31-533 through 15-31-540 reserved.

15-31-541. Site of failure to act — evidence. The failure to do any act required by or under the provisions of this chapter shall be deemed an act committed in the office of the department of revenue in Helena, Montana. The certificates of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by or under the provisions of this chapter shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

History: En. Sec. 8, Ch. 166, L. 1933; re-en. Sec. 2303.4, R.C.M. 1935; amd. Sec. 63, Ch. 516, L. 1973; R.C.M. 1947, 84-1512.

15-31-542. Repealed. Sec. 18, Ch. 79, L. 1983.

History: En. Sec. 9, Ch. 166, L. 1933; re-en. Sec. 2303.5, R.C.M. 1935; R.C.M. 1947, 84-1513.

15-31-543. Forfeiture of right to engage in business — penalties. (1) A corporation that purposely fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as a corporation until the corporate income tax, together with all penalties, interest, and costs, is paid. The forfeiture may be enforced by proper proceedings in court.

(2) Each officer or employee of any corporation or other person who, without fraudulent intent, fails to file, sign, or verify any return or to supply any information within the time required by the provisions of this chapter is liable for the penalty imposed by 15-1-216. The department shall assess and collect any penalty in the same manner as is provided in this chapter with regard to delinquent taxes.

History: (1)En. Sec. 6, Ch. 79, L. 1917; re-en. Sec. 2301, R.C.M. 1921; re-en. Sec. 2301, R.C.M. 1935; Sec. 84-1506, R.C.M. 1947; (2)En. Sec. 12, Ch. 166, L. 1933; re-en. Sec. 2303.8, R.C.M. 1935; amd. Sec. 66, Ch. 516, L. 1973; Sec. 84-1516, R.C.M. 1947; R.C.M. 1947, 84-1506, 84-1516; amd. Sec. 13, Ch. 427, L. 1999; amd. Sec. 17, Ch. 594, L. 2005; amd. Sec. 29, Ch. 268, L. 2013.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-31-544. Action on false or fraudulent return. Whenever a return is required to be filed and the taxpayer files a fraudulent return or fails to file the return, including a federal adjustments report under 15-30-3403 or 15-30-3404, the department may at any time assess the tax or begin a proceeding in court for the collection of the tax without assessment.

History: En. Sec. 1, Ch. 408, L. 1981; amd. Sec. 1, Ch. 222, L. 1983; amd. Sec. 15, Ch. 108, L. 2021.

15-31-545. Repealed. Sec. 40, Ch. 594, L. 2005.

History: En. Sec. 1, Ch. 51, L. 1997; amd. Sec. 14, Ch. 427, L. 1999.

15-31-546 through 15-31-550 reserved.

15-31-551. Certified copies of corporate income tax returns to taxpayer — fee. Certified copies of returns filed for corporate income tax under 15-31-111 may be furnished by the department to the taxpayer or the taxpayer's authorized representative upon payment of 50 cents for each page.

History: En. Sec. 1, Ch. 187, L. 1965; amd. Sec. 20, Ch. 516, L. 1973; R.C.M. 1947, 84-732(part); amd. Sec. 177, Ch. 56, L. 2009; amd. Sec. 30, Ch. 268, L. 2013.

15-31-552. Corporation dissolution or withdrawal certificates and tax clearance certificates furnished. (1) For purposes of voluntary withdrawal or dissolution as set forth in Title 35, upon request of a corporation, the department of revenue may furnish to it a dissolution or withdrawal certificate verifying that the corporation has filed all applicable returns and has paid all taxes owing the state up to the date of the request for dissolution or withdrawal.

(2) Upon final withdrawal or dissolution, the department may furnish to a corporation a tax clearance certificate verifying that the corporation has filed all applicable returns and that all taxes have been paid through and including the corporation's final year of existence in Montana.

History: En. Sec. 2, Ch. 187, L. 1965; amd. Sec. 21, Ch. 516, L. 1973; R.C.M. 1947, 84-733; amd. Sec. 1, Ch. 658, L. 1991; amd. Sec. 2, Ch. 69, L. 1999; amd. Sec. 1, Ch. 117, L. 2019; amd. Sec. 224, Ch. 271, L. 2019; amd. Sec. 1, Ch. 471, L. 2021.

15-31-553. Fees to reimburse department for costs — deposit in general fund. All money collected under 15-31-551 and 15-31-552 must be used to reimburse the department of revenue and the commissioner of insurance for costs involved in the preparation of the copies and certificates. All money collected must go into the general fund.

History: En. Sec. 3, Ch. 187, L. 1965; amd. Sec. 22, Ch. 516, L. 1973; R.C.M. 1947, 84-734; amd. Sec. 2, Ch. 117, L. 2019.

15-31-554. Returns to which sections apply. The provisions of 15-31-551 through 15-31-553 shall apply to all returns on file and all returns to be filed hereafter.

History: En. Sec. 4, Ch. 187, L. 1965; R.C.M. 1947, 84-735.

Part 6
Lists of Corporations

15-31-601. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 1, Ch. 469, L. 1973; R.C.M. 1947, 84-708.2; amd. Sec. 24, Ch. 581, L. 1979.

15-31-602. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 2, Ch. 469, L. 1973; R.C.M. 1947, 84-708.3.

15-31-603. List of entities furnished by secretary of state. On or before the 15th day of each month, the secretary of state shall provide a list of all new corporations, limited partnerships, limited liability companies, and limited liability partnerships, foreign and domestic, subject to the terms of Title 35, chapters 1, 4, 5, 8 through 10, and 12, to the department of revenue. The list must include the following information:

(1) the name of the entity;

(2) the principal office of the entity;

(3) the name and address of the registered agent of the entity in Montana, if applicable; and

(4) other information that the director of the department of revenue may require.

History: En. Sec. 3, Ch. 469, L. 1973; R.C.M. 1947, 84-708.4; amd. Sec. 1, Ch. 252, L. 1989; amd. Sec. 14, Ch. 143, L. 2001; amd. Sec. 1, Ch. 273, L. 2005.

15-31-604. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 4, Ch. 469, L. 1973; R.C.M. 1947, 84-708.5.

15-31-605. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 5, Ch. 469, L. 1973; R.C.M. 1947, 84-708.6; amd. Sec. 25, Ch. 581, L. 1979.

15-31-606. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 6, Ch. 469, L. 1973; R.C.M. 1947, 84-708.7.

15-31-607. Repealed. Sec. 2, Ch. 252, L. 1989.
History: En. Sec. 7, Ch. 469, L. 1973; R.C.M. 1947, 84-708.8.

Part 7
Bank, Moneyed Capital, and Shares Exempt

15-31-701. Repealed. Sec. 253, Ch. 574, L. 2001.
History: En. Sec. 5, Ch. 634, L. 1979; amd. Sec. 12, Ch. 811, L. 1991; amd. Sec. 2, Ch. 369, L. 1997.

15-31-702. Repealed. Sec. 253, Ch. 574, L. 2001.
History: En. Sec. 6, Ch. 634, L. 1979; amd. Sec. 10, Ch. 703, L. 1985; amd. Sec. 12, Ch. 16, L. 1991; amd. Sec. 2, Ch. 626, L. 1991; amd. Sec. 4, Ch. 455, L. 1993; amd. Sec. 11, Ch. 18, L. 1995; amd. Sec. 3, Ch. 369, L. 1997; amd. Sec. 33, Ch. 51, L. 1999.

15-31-703. Moneyed capital and shares of banks exempt. (1) Moneyed capital and shares of banks are exempt from taxation.

(2) "Moneyed capital" means money, bonds, notes, and other evidence of indebtedness, including evidence of indebtedness secured by a mortgage on real or personal property, in the hands of individual citizens and corporations coming into competition with the business of national banks or employed in conducting a banking or investment business.

History: En. Sec. 7, Ch. 634, L. 1979.

Part 8
Foreign Capital Depository — Assessment (Repealed)

15-31-801. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 56, Ch. 382, L. 1997.

15-31-802. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 57, Ch. 382, L. 1997.

15-31-803. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 58, Ch. 382, L. 1997; amd. Sec. 1, Ch. 3, Sp. L. May 2000.

15-31-804. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 59, Ch. 382, L. 1997.

15-31-805. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 60, Ch. 382, L. 1997.

15-31-806. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 61, Ch. 382, L. 1997.

15-31-807. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 62, Ch. 382, L. 1997.

15-31-808. Repealed. Sec. 23, Ch. 163, L. 2005.
History: En. Sec. 63, Ch. 382, L. 1997.

Part 9
Movie and TV Industries and Related Media — Tax Incentives (Repealed and Terminated)

15-31-901. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 1, Ch. 593, L. 2005.

15-31-902. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 2, Ch. 593, L. 2005.

15-31-903. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 3, Ch. 593, L. 2005.

15-31-904. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 4, Ch. 593, L. 2005.

15-31-905. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 5, Ch. 593, L. 2005.

15-31-906. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.
History: En. Sec. 6, Ch. 593, L. 2005; amd. Sec. 1, Ch. 367, L. 2007.

15-31-907. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.
History: En. Sec. 7, Ch. 593, L. 2005; amd. Sec. 2, Ch. 367, L. 2007.

15-31-908. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.
History: En. Sec. 8, Ch. 593, L. 2005; amd. Sec. 3, Ch. 367, L. 2007.

15-31-909. Repealed. Sec. 5, Ch. 367, L. 2007.
History: En. Sec. 9, Ch. 593, L. 2005.

15-31-910. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.
History: En. Sec. 10, Ch. 593, L. 2005.

15-31-911. Terminated. Sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.
History: En. Sec. 11, Ch. 593, L. 2005; amd. Sec. 4, Ch. 367, L. 2007.

Part 10
Montana Economic Development Industry Advancement Act

15-31-1001. Short title. This part may be cited as the "Montana Economic Development Industry Advancement Act".
History: En. Sec. 1, Ch. 352, L. 2019.

15-31-1002. Purpose. The purpose of this part is to create a more resilient Montana economy by diversifying and driving local growth in the media manufacturing sector and ancillary supporting sectors by:

(1) creating tax credit reservation allocations that put Montana businesses first;

(2) driving brick and mortar investment into permanent infrastructure in the state;

(3) increasing career pathway training and full-time equivalent jobs for a broad array of Montana resident workers;

(4) expanding a sustainable media manufacturing sector through film and related media production in the state; and

(5) limiting liability to the state.

History: En. Sec. 2, Ch. 352, L. 2019; amd. Sec. 2, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 598, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means a subsidiary of which more than 50% of the voting stock is owned directly by the parent corporation or another member of the Montana combined group.

(2) "Base investment" means the amount expended by a production company as production expenditures and compensation incurred in this state that are directly used in a state-certified production.

(3) (a) "Compensation" means Montana wages, salaries, commissions, payments to a loan-out company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of remuneration paid to employees for personal services performed in this state.

(b) The term does not include compensation paid that is less than the minimum wage described in 39-3-409.

(c) The term includes payments to a loan-out company by a production company if the production company withheld and remitted Montana income tax at the highest marginal rate in effect under 15-30-2103 on all payments to the loan-out company for services performed in this state. The amount withheld is considered to have been withheld by the loan-out company on wages paid to its employees for services performed in this state. The amounts withheld must be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Montana. For purposes of this chapter, loan-out company nonresident employees performing services in this state must be considered taxable nonresidents and the loan-out company is subject to income taxation in the tax year in which the loan-out company's employees perform services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to penalties and interest as provided in 15-1-216.

(d) With respect to a single crew member or production staff member, excluding an actor, director, producer, or writer, the portion of any compensation that exceeds $500,000 for a single production is not included when calculating the base investment.

(e) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest are considered as having been paid to the employee and must be aggregated regardless of the means of payment or distribution.

(4) "Domiciled company" means a corporation incorporated in the state or a partnership, limited liability company, or other business entity subject to tax under Title 15, chapter 30 or 31:

(a) domiciled and headquartered in the state for a minimum of 1 year for the purpose of performing qualified production activities or qualified postproduction activities; and

(b) that maintains a minimum of 15 resident full-time equivalent jobs that pay wages above the state average median income and for which Montana income tax is withheld.

(5) "Game platform" means the electronic delivery system used to launch or play an interactive game.

(6) "Game sequel" means an interactive game that builds on the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from those in the original game.

(7) "Independent film production" means a state-certified production with a production budget approved by the department of commerce of $3 million or less.

(8) (a) "Loan-out company" means a personal service company contracted with and retained by a production company to provide individual personnel who are not employees of the production company, including actors, directors, producers, writers, production designers, production managers, costume designers, directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

(b) The term does not include persons retained by a production company to provide tangible property or outside independent contractor services, such as catering, construction, trailers, equipment, and transportation.

(9) "Multimarket commercial distribution" means paid commercial distribution that extends to markets outside the state.

(10) (a) "Postproduction company" means a company that:

(i) maintains a business location physically located in this state;

(ii) is engaged in qualified postproduction activities;

(iii) meets the requirements of 15-31-1005(4); and

(iv) has been approved by the department of commerce to claim the credit provided for in 15-31-1009.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(11) "Prereleased interactive game" means a new game, the offering of an existing game on a new game platform, or a game sequel that is in the developmental stages of production and that may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(12) (a) "Production company" means a company primarily engaged in qualified production activities that have been approved by the department of commerce.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(13) (a) "Production expenditure" means a preproduction or production expenditure incurred in Montana that is directly used for a qualified production activity including:

(i) set construction and operation;

(ii) wardrobes, makeup, accessories, and related services;

(iii) costs associated with photography and sound synchronization expenditures, excluding license fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related services and materials;

(iv) editing and related services;

(v) rental of facilities and equipment;

(vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or materials;

(vii) lodging costs, including hotel rooms and private housing rentals paid for by the production company;

(viii) per diem and living allowance paid to staff, cast, and crew members;

(ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, visual effects services, and animation services;

(x) airfare, if purchased through a Montana travel agency or travel company;

(xi) insurance costs and bonding, if purchased through a Montana insurance agency; and

(xii) other direct costs of producing the project in accordance with generally accepted entertainment industry practices and generally accepted accounting principles.

(b) The term does not include:

(i) compensation, which qualifies for the credit provided for in 15-31-1007(3)(b)(i) through (3)(b)(v);

(ii) production expenditures for footage shot outside the state;

(iii) marketing;

(iv) story rights;

(v) distribution; or

(vi) postproduction expenditures.

(14) "Qualified Montana facility" means a media manufacturing facility of 10,000 or more square feet and measuring at least 25 feet from floor to truss that was constructed or renovated in the state on or after January 1, 2025, at a minimum capital expenditure of $10 million for the primary purpose of engaging in the development of qualified production or postproduction activities and for which the owner is subject to tax under Title 15, chapter 30 or 31.

(15) "Qualified Montana promotion" means a promotion of this state approved by the department of commerce and consisting of:

(a) a qualified movie production that includes a 5-second static or animated logo that promotes Montana in the end credits for the life of the project and that includes a link to the official state of Montana website on the project's website;

(b) a qualified television production that includes an embedded 5-second Montana promotion during each broadcast worldwide for the life of the project and that includes a link to the official state of Montana website on the project's website;

(c) a qualified music video that includes the Montana logo at the end of each video and within online promotions;

(d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and embedded in online promotions; or

(e) a qualified television special or sports event for which the network provides complimentary placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming promoting Montana destinations and provided by the department of commerce as provided for in 15-31-1004(7).

(16) "Qualified postproduction activity" means an activity performed in this state on a qualified production employing traditional, emerging, and new workflow techniques used in postproduction for picture, sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation, musical composition, and other activities performed after initial production and including activities performed on previously produced and edited content.

(17) "Qualified postproduction wage" means wages incurred in this state directly in qualified postproduction activities for footage shot inside or outside this state.

(18) (a) "Qualified production" means a production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded $5 million, that is a new film, video, or digital project including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes projects shot, recorded, or originally created in short or long form, animation, and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, feature films consisting primarily of stock footage not originally recorded in Montana, or projects containing obscenity as defined in 45-8-201(2).

(19) (a) "Qualified production activity" means a production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded $5 million, that is a new film, video, or digital project in this state and approved by the department of commerce, including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes the production of projects filmed or recorded in this state, in whole or in part and in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, or feature films consisting primarily of stock footage not originally recorded in Montana, projects containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in Montana.

(20) "Resident" has the meaning provided in 15-30-2101.

(21) "State-certified production" means a production engaged in qualified production activities and certified by the department of commerce as provided in 15-31-1004.

(22) "Underserved area" means a county in this state in which 14% or more people of all ages are in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

History: En. Sec. 3, Ch. 352, L. 2019; amd. Sec. 1, Ch. 642, L. 2023; amd. Sec. 6, Ch. 701, L. 2023; amd. Sec. 3, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 598, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1004. Application for state certification. (1) (a) A production company may not receive the tax credit provided for in 15-31-1007 unless the production has been certified by the department of commerce as provided in this section.

(b) A postproduction company may not receive the tax credit provided for in 15-31-1009 unless the postproduction company has been certified by the department of commerce. The postproduction company shall submit an application that includes the information provided for in subsection (2)(a) for the postproduction company. The application must be submitted in the year in which the postproduction plans to claim the credit and must be accompanied by a $500 application fee. For the purposes of allocating the credit pursuant to 15-31-1010, the application must contain an estimate of the amount of credit the postproduction company will claim. A postproduction company that plans to claim the credit in more than 1 tax year must apply for the credit each year, but the application fee is only required in the first year of application. The department of commerce shall notify the applicant whether the postproduction company qualifies for the credit within 30 days of receipt of the application.

(2) An application, on a form provided by the department of commerce, must be submitted by the production company to the department of commerce before the start of principal photography. The application must be accompanied by a $500 fee and must include:

(a) the production company's name, primary business address, telephone and fax numbers, incorporation information, federal tax identification number, and the name of at least one principal company officer or manager;

(b) the address and telephone and fax numbers of the production company's Montana office;

(c) the name of the line producer, unit production manager, or production accountant;

(d) a statement that the applicant meets the definition of production company in 15-31-1003;

(e) the title of the production;

(f) the type of production;

(g) the proposed dates of production from preproduction to the start and completion of principal photography;

(h) a copy or synopsis of the production script;

(i) a list of production locations;

(j) a statement that the proposed production does not contain any material or performance that would be considered obscene under 45-8-201(2);

(k) a statement that the production will include a qualified Montana promotion; and

(l) a statement that the production company plans to make a base investment of $350,000 or more or, if subsection (5) applies, that the production company plans to make a base investment of $50,000 or more.

(3) The application must be signed by the manager, agent, president, vice president, or other person authorized to represent the production company.

(4) (a) The department of commerce shall notify the applicant within 30 days of receipt of the application as to whether the production qualifies as a state-certified production.

(b) If the department of commerce approves the application, the department of commerce shall provide a certification number to the applicant.

(5) The department of commerce may approve on a case-by-case basis an application for a commercial, music video, production for website creation, video game, interactive entertainment, or experimental or low-budget project that plans a base investment of less than $350,000 but more than $50,000.

(6) (a) If the department of commerce determines that the production company has violated the provisions of subsection (2)(j) or (2)(k), the department of commerce may revoke the state certification of the production. If the department of commerce revokes the state certification, the department of commerce shall notify the department of revenue. The production company has the right to a hearing before the department of commerce on the revocation of the state certification as provided in Title 2, chapter 4, part 6.

(b) The department of revenue shall recapture any tax credit claimed by a production company for which the state certification has been revoked. The recapture is subject to penalties and interest as provided in 15-1-216.

(c) If the production company transferred the tax credit, the recapture provisions of 15-31-1008(7) apply.

(7) The department of commerce shall design and furnish the Montana screen credit needed to qualify for the additional tax credit provided for in 15-31-1007(3)(b)(ix) and the programming promoting Montana destinations provided for in 15-31-1003(15)(e).

(8) The application fee must be deposited in an account in the state special revenue fund. The fee is statutorily appropriated to the department of commerce, as provided in 17-7-502, to administer the provisions of 15-31-1004 through 15-31-1012.

(9) The department of commerce shall prescribe rules necessary to carry out the provisions of this section, including a procedure for review of the department of commerce's denial or revocation of state certification, the department's policies on the types of productions that may include the Montana screen credit, and the criteria for approving projects with a base investment of less than $350,000.

History: En. Sec. 4, Ch. 352, L. 2019; amd. Sec. 4, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 598, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1005. Submission of costs — fee. (1) Prior to claiming the media production tax credit provided for in 15-31-1007 or the tax credit for postproduction wages provided for in 15-31-1009, a production company or postproduction company must be approved to claim the credit by the department of commerce and shall submit costs to the department of revenue

as provided in this section. A taxpayer may not claim a credit provided for in 15-31-1007 or 15-31-1009 unless the costs have been approved as provided in this section. The submission of cost information must be accompanied by a fee as follows:

(a) for a production company with a base investment of less than $350,000, $500;

(b) for a production company with a base investment of $350,000 or more, $1,000;

(c) for a postproduction company claiming the credit provided for in 15-31-1009, $1,000.

(2) (a) A production company wishing to claim or transfer the tax credit for media production provided for in 15-31-1007 shall submit to the department of revenue detailed information on production expenditures and compensation paid in connection with the state-certified production. Production expenditures and compensation paid must be submitted:

(i) by the last day of the third year following the year in which principal photography ended; or

(ii) for a state-certified production for which expenditures will be claimed for multiple tax years:

(A) annually, if the production company chooses to submit production expenditures and compensation paid within each year; or

(B) by the last day of the third year following the year in which principal photography ended.

(b) The fee provided for in subsection (1) must be paid with each submission of production expenditures and compensation paid filed under subsection (2)(a).

(c) The information submitted by the production company must include:

(i) the certification number of the state-certified production, as provided for in 15-31-1004(4);

(ii) a description of the qualified production activities and the production expenditures, including information that demonstrates a base investment of $350,000 or more or, if 15-31-1004(5) applies, a base investment of $50,000 or more; and

(iii) if compensation is included in the production expenditures, a detailed listing of employee names, social security numbers, Montana wages, state of residence, and whether the employee is an enrolled student.

(3) (a) The department of revenue shall review the costs submitted pursuant to subsection (2) and provide to the department of commerce the amount of the media production tax credit calculated pursuant to 15-31-1007 that may be claimed or transferred and the federal tax identification number of the production company.

(b) (i) Except as provided in subsection (3)(b)(ii), the department of revenue shall approve the media production tax credit if the state-certified production's base investment is $350,000 or more.

(ii) The department of revenue shall approve the credit for a commercial, music video, production for website creation, video game, interactive entertainment, or experimental or low-budget project certified by the department of commerce pursuant to 15-31-1004(5) if the production's base investment is $50,000 or more.

(c) A credit may be approved as provided in this subsection (3) only if principal photography began within 1 year of the date the department of commerce certified the production pursuant to 15-31-1004.

(4) A postproduction company wishing to claim the tax credit for qualified postproduction wages provided for in 15-31-1009 shall submit to the department of revenue a detailed listing of employee names, social security numbers, and Montana wages by the last day of the third year following the year the postproduction company paid the qualified postproduction wages.

(5) The identity and social security number or federal tax identification number of the employees for which compensation information is submitted pursuant to this section are subject to the provisions of 15-30-2618 and 15-31-511.

(6) The fee provided for in subsection (1) must be deposited in the state special revenue fund. The fee is statutorily appropriated, as provided in 17-7-502, to the department of revenue to administer the provisions of 15-31-1007 through 15-31-1009.

History: En. Sec. 5, Ch. 352, L. 2019; amd. Sec. 2, Ch. 642, L. 2023.

15-31-1006. Production expenditure verification report. (1) A production company with a base investment of more than $350,000 that claims the credit provided for in 15-31-1007

shall submit a production expenditure verification report to the department of revenue as provided in this section. The report must be submitted with the submission of costs required by 15-31-1005(2)(a).

(2) The production expenditure verification report must:

(a) be issued by a certified public accountant who is unrelated to the production company and include a certification to that effect;

(b) be performed in accordance with the accounting standards generally accepted in the United States;

(c) be addressed to the person who engaged the accountant with a copy addressed to the production company or person who applies for the credit provided for in 15-31-1007;

(d) include the accountant's name, address, and telephone number;

(e) include the date of completion of the accountant's work; and

(f) contain a statement of acknowledgment by the accountant that the state is relying on the report to issue tax credits.

(3) The contents of the report must include:

(a) verification of the accuracy of the production expenditures and compensation submitted pursuant to 15-31-1005(2);

(b) an opinion from the accountant stating that there are no related party transactions or that material related party transactions are properly reported and accounted for, adequately disclosed, and explained in the report; and

(c) a statement that the submission of the production expenditures and compensation presents fairly, in all material aspects, the production expenditures and compensation expended in Montana pursuant to the provisions of this part.

(4) All costs associated with the report are the obligation of the production company.

History: En. Sec. 6, Ch. 352, L. 2019; amd. Sec. 3, Ch. 642, L. 2023.

15-31-1007. Tax credit for media production. (1) Subject to 15-31-1010 and through the tax year ending December 31, 2045, a production company and its affiliates are allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base investment made up to 6 months before state certification through completion of the project. Subject to 15-31-1010(3), the credit must be claimed for the year in which the production expenditures were incurred or the compensation was paid.

(2) To claim the credit provided for in this section:

(a) the production company or its affiliate must have applied to the department of commerce as provided in 15-31-1005 and been approved to claim or transfer the credit; or

(b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this section was transferred.

(3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the production company's base investment in the tax year.

(b) Additional amounts for which the credit may be claimed are:

(i) 25% of the compensation paid per production or season of a television series to each crew member or production staff member who is a resident, not to exceed a $150,000 credit per person;

(ii) 15% of the compensation paid per production or season of a television series to each crew member or production staff member who is not a resident but for whom Montana income taxes have been withheld, not to exceed a $150,000 credit per person;

(iii) 20% of the first $7.5 million of compensation paid per production or season of a television series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

(iv) 30% of compensation paid per production or season of a television series to a student enrolled in a Montana college or university who works on the production as a paid intern or as a bona fide employee and for college credit. The credit may not exceed $50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the credits provided for in subsections (3)(b)(i) through (3)(b)(iii) and (3)(b)(v) may not be claimed for the same enrolled student.

(v) 30% of the compensation paid per production or season of a television series to each crew member or production staff member who is a Montana resident veteran of the armed forces of the United States or an enrolled member or descendant of an Indian tribe recognized by the state, not to exceed a $150,000 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits provided for in subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or production staff.

(vi) an additional 10% of payments made to a Montana college or university for stage rentals, equipment rentals, or location fees for filming on campus;

(vii) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for a production that rents a studio for 20 days or more;

(viii) an additional 5% for production expenditures made in an underserved area; and

(ix) an additional 5% of the base investment in the state if the state-certified production includes a Montana screen credit furnished by the state as provided in 15-31-1004(7).

(4) If one production company makes a production expenditure to hire another production company to produce a project or contribute elements of a project for pay, the hired production company is considered a service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures that are incurred in the state.

(5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has a tax liability less than the amount of the credit.

(6) A taxpayer claiming a credit shall include with the tax return the following information:

(a) the amount of tax credit claimed and transferred for the tax year;

(b) the amount of the tax credit previously claimed or transferred;

(c) the amount of the tax credit carried over from a previous tax year; and

(d) the amount of the tax credit to be carried over to a subsequent tax year.

(7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (7)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the production expenditure or compensation on which the amount of the credit was computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114.

History: En. Sec. 7, Ch. 352, L. 2019; amd. Sec. 16, Ch. 352, L. 2019; amd. Sec. 30, Ch. 503, L. 2021; amd. Sec. 5, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 598, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1008. Transfer of tax credit for media production — transfer fee. (1) A tax credit for a state-certified production approved as provided in 15-31-1004 and 15-31-1005 and calculated pursuant to 15-31-1007 but not claimed by the production company may be

transferred in whole or in part by the production company to another Montana taxpayer as provided in this section.

(2) A credit may be transferred only once each tax year. The transfer may involve one or more transferees.

(3) A transferee must acquire the credit for a minimum of 85% of its value.

(4) A transferred credit is subject to the carryforward period from the year in which the production company was eligible to claim the credit.

(5) A production company or taxpayer that transfers a tax credit shall submit to the department of revenue a written notification of the transfer of the tax credit within 30 days after the transfer. The notification must include the following information:

(a) the certification number of the state-certified production;

(b) the tax credit balance before and after the transfer;

(c) the tax identification number of the taxpayer to whom the credit was transferred;

(d) the amount of credit transferred; and

(e) any other information required by the department of revenue.

(6) The notification of the transfer of a tax credit must be accompanied by a fee equal to 2% of the value of the tax credit transferred. The transfer fee must be deposited in the general fund.

(7) A transferee has rights to claim the tax credit available to the production company or previous transferee only at the time of the transfer. If a production company or transferee did not have rights to claim the credit at the time of transfer, the department of revenue shall disallow the credit claimed by the taxpayer or recapture the credit. The transferee's recourse is against the production company or previous transferee and not against the state of Montana.

(8) The department shall administer the transfer of credits pursuant to this section.

History: En. Sec. 8, Ch. 352, L. 2019.

15-31-1009. Tax credit for postproduction wages. (1) Subject to 15-31-1010 and through the tax year ending December 31, 2045, a postproduction company that has incurred qualified postproduction wages in the tax year is allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the department of commerce as provided in 15-31-1004 and to the department of revenue as provided in 15-31-1005 and is approved to claim the credit.

(2) The tax credit is equal to 25% of qualified postproduction wages incurred in the state.

(3) A tax credit claimed under this section may not exceed the postproduction company's total compensation paid to employees working in this state for the tax year in which the credit is claimed.

(4) The tax credit allowed by this section may not be refunded if the taxpayer has no tax liability. Any unused credit may be carried forward for 5 years.

(5) A taxpayer claiming a credit shall include with the tax return the following information:

(a) the amount of tax credit claimed for the tax year;

(b) the amount of the tax credit previously claimed;

(c) the amount of the tax credit carried over from a previous tax year; and

(d) the amount of the tax credit to be carried over to a subsequent tax year.

(6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (6)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(7) A postproduction company may not claim a credit under this section for production expenditures for which the media production credit provided for in 15-31-1007 is claimed.

History: En. Sec. 9, Ch. 352, L. 2019; amd. Sec. 17, Ch. 352, L. 2019; amd. Sec. 6, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 598, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1010. Limitation of tax credits — allocation — fee. (1) (a) The department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

(b) The authorization by the department of commerce to apply for a credit does not guarantee the credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the requirements of 15-31-1005 through 15-31-1009 and subsections (2) and (3) of this section.

(c) The department of commerce shall make reasonable efforts to post on its website the amount of tax credits available and not yet allocated.

(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed $12 million per calendar year and must be allocated as provided in subsection (2)(b).

(b) Except as provided in subsection (2)(c), credits under 15-31-1007 and 15-31-1009 are allocated as follows:

(i) $12 million is allocated annually for credits approved prior to December 31, 2024, until the year when all of the approved credits for productions that occurred in years before 2025 are claimed, and after all carry forward authority has expired; and

(ii) once the credits approved prior to December 31, 2024, are claimed, the remainder must be allocated as follows:

(A) 10% to any production company or postproduction company on a first-come, first-served basis;

(B) 10% for independent film productions;

(C) 40% for media production credits derived from any portion of base investment related to the rental cost of qualified Montana facilities; and

(D) 40% for domiciled companies.

(c) By April 1 of each year following the year the production expenditures were incurred or the compensation was paid, any balance not claimed under subsection (2)(b) for the prior year is available on a first-come, first-served basis in addition to the amount allocated under subsection (2)(b)(i). Any unclaimed credit balance that becomes available under this section is subject to a 2% fee.

(3) (a) A taxpayer whose claim for a credit from a production occurring prior to January 1, 2025, is approved but is disallowed because the calendar year limit has been reached may use the credit in the next calendar year. The transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-31-1007(5) or 15-31-1009(4).

(b) If a claim is disallowed because the calendar year limit has been reached, the department of revenue may waive penalties and interest pursuant to 15-1-216.

(c) The department of revenue shall make reasonable efforts to post on its website the amount of credits available and not yet claimed.

(4) The fee provided for in subsection (2)(c) must be deposited in the account provided for in 15-31-1013 and used for film industry workforce training.

History: En. Sec. 10, Ch. 352, L. 2019; amd. Secs. 1 thru 5, Ch. 509, L. 2021; amd. Sec. 7, Ch. 598, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 7, Ch. 598, L. 2025. Amendment effective May 13, 2025.

2021 Amendment Repealed: Section 8, Ch. 598, L. 2025, repealed sections 1 through 9, Ch. 509, L. 2021, which amended this section and provided severability, effective dates, applicability, termination dates, and contingent termination. Effective May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

15-31-1011. Report to legislature. (1) The department of commerce shall provide a written report about the economic impact of the tax credits provided for in 15-31-1007 through 15-31-1009 to the revenue interim committee provided for in 5-5-227. The report must be provided no less than 6 months before the start of the 2021 regular legislative session and, pursuant to 5-11-210, every 2 years thereafter, and must be posted on the department of commerce's website.

(2) The report must include:

(a) the overall impact of the tax credits;

(b) the dollar amount of tax credits issued;

(c) the number of net new jobs created;

(d) the amount of compensation paid;

(e) the economic impact of the film industry in the state;

(f) the names of all state certified productions eligible to claim tax credits; and

(g) any other information that describes the impact of the tax credits.

(3) The department of commerce shall contract with a research organization to prepare the report required by this section. The research organization may not be affiliated with the film industry or with the department of commerce. The department of commerce may use the fees collected pursuant to 15-31-1004 or other funding to pay for the report.

(4) The department of commerce shall make recommendations to the revenue interim committee on whether to make changes to the tax credits provided for in 15-31-1007 through 15-31-1009, including changes to the cap provided for in 15-31-1010. The revenue interim committee may make recommendations to the legislature based on the information contained in the report and the department of commerce's recommendations.

History: En. Sec. 11, Ch. 352, L. 2019; amd. Sec. 20, Ch. 163, L. 2019.

15-31-1012. Rulemaking. (1) The department of commerce and the department of revenue shall adopt rules necessary to implement and administer this part. The rules must include procedures for:

(a) determining production expenditures allowed under 15-31-1007 and postproduction wages allowed under 15-31-1009;

(b) administering the transfer of credits and the registration and reporting requirements of credit brokers pursuant to 15-31-1008; and

(c) reviewing taxpayer compliance with the provisions of 15-31-1004.

(2) The department of revenue and the department of commerce shall jointly adopt rules related to the content of the definitions in 15-31-1003.

History: En. Sec. 12, Ch. 352, L. 2019.

15-31-1013. Media manufacturing industry workforce training account. (1) There is an account in the state special revenue fund provided for in 17-2-102 known as the film industry workforce training account.

(2) The fee collected under 15-31-1010(2)(c) must be deposited in the account.

(3) The department of labor and industry shall use money in the account to provide workforce training for the film industry.

History: En. Sec. 1, Ch. 598, L. 2025.

Compiler's Comments

Effective Date: Section 11, Ch. 598, L. 2025, provided: "[This act] is effective on passage and approval." Approved May 13, 2025.

Retroactive Applicability: Section 12, Ch. 598, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025."

CHAPTER 32
ENERGY-RELATED AND ECOLOGICAL TAX INCENTIVES

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Chapter Cross-References
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Part 1
Investment in Energy Conservation or Alternative Energy

Part Cross-References
Geothermal research, 90-3-1301.

15-32-101. Purpose. The purpose of this part is to encourage the use of alternative energy sources and the conservation of energy through incentive programs. The incentives are to be made available to the energy user on a basis that requires the energy user to take the initiative in obtaining a particular incentive.

History: En. 84-7401 by Sec. 1, Ch. 548, L. 1975; amd. Sec. 7, Ch. 576, L. 1977; R.C.M. 1947, 84-7401; amd. Sec. 178, Ch. 56, L. 2009; amd. Sec. 1, Ch. 11, L. 2021.

15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Alternative energy system" means the generation system or equipment used to convert energy sources into usable sources using fuel cells that do not require hydrocarbon fuel, geothermal systems, low-emission wood or biomass, wind, photovoltaics, geothermal, small hydropower plants under 1 megawatt, and other recognized nonfossil forms of energy generation.

(2) "Building" means:

(a) a single or multiple dwelling, including a mobile home or manufactured home; or

(b) a building used for commercial, industrial, or agricultural purposes that is enclosed with walls and a roof.

(3) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

(4) "Energy conservation purpose" means one or both of the following results of an investment:

(a) reducing the waste or dissipation of energy; or

(b) reducing the amount of energy required to accomplish a given quantity of work.

(5) "Geothermal system" means a system that transfers energy either from the ground, by way of a closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a residential building.

(6) "Low-emission wood or biomass combustion device" means:

(a) a wood-burning appliance that is:

(i) certified by the U.S. environmental protection agency pursuant to 40 CFR 60.533; or

(ii) qualified for the phase 2 white tag under the U.S. environmental protection agency method 28 OWHH for outdoor hydronic heaters;

(b) an appliance that uses wood pellets as its primary source of fuel; or

(c) a masonry heater constructed or installed in compliance with the requirements for masonry heaters in the International Residential Code for One- and Two-Family Dwellings.

(7) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. The term includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(8) "Recognized nonfossil forms of energy generation" means:

(a) a system that captures energy or converts energy sources into usable sources, including electricity, by using:

(i) solar energy, including passive solar systems;

(ii) wind;

(iii) solid waste;

(iv) the decomposition of organic wastes;

(v) geothermal;

(vi) fuel cells that do not require hydrocarbon fuel; or

(vii) an alternative energy system;

(b) a system that produces electric power from biomass or solid wood wastes; or

(c) a small system that uses water power by means of an impoundment that is not over 20 acres in surface area.

History: En. 84-7402 by Sec. 2, Ch. 548, L. 1975; R.C.M. 1947, 84-7402; amd. Sec. 1, Ch. 652, L. 1979; amd. Sec. 1, Ch. 513, L. 1985; amd. Sec. 16, Ch. 83, L. 1989; amd. Sec. 2, Ch. 467, L. 1991; amd. Sec. 1, Ch. 646, L. 1991; amd. Sec. 41, Ch. 418, L. 1995; amd. Sec. 74, Ch. 42, L. 1997; amd. Sec. 20, Ch. 200, L. 1997; amd. Sec. 9, Ch. 591, L. 2001; amd. Sec. 1, Ch. 155, L. 2003; amd. Sec. 1, Ch. 334, L. 2009.

15-32-103. Deduction for energy-conserving investments. (1) In addition to all other deductions from gross corporate income allowed in computing net income under chapter 31, part 1, a taxpayer may deduct a portion of the taxpayer's expenditure for a capital investment in a building for an energy conservation purpose, in accordance with the following schedule:

If the installation or investment is made in a residential building:	If the installation or investment is made in a building not used as a residence:
100% of first $1,000 expended	100% of first $2,000 expended
50% of next $1,000 expended	50% of next $2,000 expended
20% of next $1,000 expended	20% of next $2,000 expended
10% of next $1,000 expended	10% of next $2,000 expended

(2) This tax treatment is subject to approval of the department, as provided in 15-32-106, and may not be claimed for so much of the expenditure and capital investment as is financed by a state, federal, or private grant for energy conservation.

History: En. 84-7403 by Sec. 3, Ch. 548, L. 1975; amd. Sec. 1, Ch. 576, L. 1977; R.C.M. 1947, 84-7403; amd. Sec. 5, Ch. 480, L. 1981; amd. Sec. 1, Ch. 133, L. 1989; amd. Sec. 179, Ch. 56, L. 2009.

15-32-104. Limitations on deduction and credit. Tax treatment under 15-32-103 is limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel extraction or conventional hydroelectric development.

History: En. 84-7406 by Sec. 6, Ch. 548, L. 1975; R.C.M. 1947, 84-7406; amd. Sec. 6, Ch. 480, L. 1981; amd. Sec. 2, Ch. 524, L. 2003; amd. Sec. 31, Ch. 503, L. 2021.

15-32-105. Application to new construction — rules. (1) It is the intent of the legislature that no deduction or credit under this part be allowed for capital investment for an energy conservation practice in the new construction of a building if that capital investment would have been made under established standards of new construction. The department of revenue shall adopt rules to implement this legislative intent. Such rules shall be based on the best currently available methods of analysis, including those of the national bureau of standards, the department of housing and urban development, and other federal agencies and professional societies and materials developed by the department. Provisions shall be made for an annual updating of rules and standards as required.

(2) The department may adopt rules to define standard components of conventional buildings and to establish other necessary elements of the definition of passive solar system consistent with the intent of 15-32-102.

History: En. Sec. 6, Ch. 576, L. 1977; amd. Sec. 7, Ch. 480, L. 1981.

15-32-106. Procedure for obtaining benefit of deduction. The department of revenue shall approve a deduction under 15-32-103 that demonstrably promotes energy conservation or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction involving energy generation to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days. The department of revenue may refer a deduction involving energy conservation to the department of labor and industry for its advice, and the department of labor and industry shall respond within 60 days. The department of revenue may deny a deduction that it finds to be impractical or ineffective.

History: En. 84-7404 by Sec. 4, Ch. 548, L. 1975; R.C.M. 1947, 84-7404; amd. Sec. 8, Ch. 480, L. 1981; amd. Sec. 2, Ch. 133, L. 1989; amd. Sec. 42, Ch. 418, L. 1995; amd. Sec. 1, Ch. 338, L. 2003; amd. Sec. 32, Ch. 503, L. 2021.

15-32-107. Repealed. Sec. 3, Ch. 11, L. 2021.

History: En. 84-7405 by Sec. 5, Ch. 548, L. 1975; R.C.M. 1947, 84-7405; amd. Sec. 1, Ch. 666, L. 1979; amd. Sec. 1, Ch. 266, L. 1981; amd. Sec. 7, Ch. 610, L. 1983; amd. Sec. 1, Ch. 331, L. 1987; amd. Sec. 1, Ch. 535, L. 1993; amd. Sec. 31, Ch. 268, L. 2013.

15-32-108. Repealed. Sec. 80, Ch. 130, L. 2005.

History: En. Sec. 9, Ch. 576, L. 1977; R.C.M. 1947, 84-7403.1; amd. Sec. 26, Ch. 581, L. 1979.

15-32-109. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 480, L. 1981; amd. Sec. 10, Ch. 591, L. 2001; amd. Sec. 3, Ch. 524, L. 2003.

15-32-110 through 15-32-114 reserved.

15-32-115. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 2, Ch. 646, L. 1991; amd. Sec. 11, Ch. 591, L. 2001; amd. Sec. 1, Ch. 39, L. 2003; amd. Sec. 1, Ch. 455, L. 2005.

Part 2
Tax Credit for Installing Alternative Energy System (Repealed)

15-32-201. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. 84-7414 by Sec. 1, Ch. 574, L. 1977; R.C.M. 1947, 84-7414(1); amd. Sec. 1, Ch. 480, L. 1983; amd. Sec. 2, Ch. 513, L. 1985; amd. Sec. 3, Ch. 467, L. 1991; amd. Sec. 27, Ch. 10, L. 1993; amd. Sec. 75, Ch. 42, L. 1997; amd. Sec. 12, Ch. 591, L. 2001; amd. Sec. 2, Ch. 334, L. 2009.

15-32-202. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. 84-7414 by Sec. 1, Ch. 574, L. 1977; R.C.M. 1947, 84-7414(2).

15-32-203. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. 84-7415 by Sec. 3, Ch. 574, L. 1977; R.C.M. 1947, 84-7415; amd. Sec. 3, Ch. 513, L. 1985; amd. Sec. 43, Ch. 418, L. 1995; amd. Sec. 2, Ch. 155, L. 2003.

Part 3
Tax Deduction for Purchasing Montana-Produced Organic Fertilizer and Inorganic Fertilizer Produced as Byproduct

15-32-301. Purpose. The purpose of this part is to promote the use of organic matter produced by Montana industries and municipalities and inorganic matter produced as byproducts of industrial or mining activity to revitalize Montana lands and to assist in making organic fertilizer and inorganic fertilizer produced as a byproduct economically competitive with commercially produced inorganic fertilizer.

History: En. Sec. 1, Ch. 533, L. 1981; amd. Sec. 2, Ch. 218, L. 1997.

15-32-302. Definitions. As used in this part, the following definitions apply:

(1) "Inorganic fertilizer produced as a byproduct" means enriched mine tailings, kiln dust, and reject rock that have been processed for use in increasing soil condition and fertility and includes soil amendments as that term is defined in 80-10-101.

(2) "Organic fertilizer" means raw organic matter that has been processed and aged for use in increasing soil condition and fertility and includes soil amendments as that term is defined in 80-10-101.

(3) "Raw organic matter" means unprocessed plant or animal waste products.

History: En. Sec. 2, Ch. 533, L. 1981; amd. Sec. 3, Ch. 218, L. 1997.

15-32-303. Deduction for purchase of Montana-produced organic or inorganic fertilizer. In addition to all other deductions from adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct expenditures for organic fertilizer and inorganic fertilizer produced as a byproduct produced in Montana and used in Montana if the expenditure was not otherwise deducted in computing taxable income.

History: En. Sec. 3, Ch. 533, L. 1981; amd. Sec. 18, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 4, Ch. 218, L. 1997.

Part 4
Alternative Energy Generation (Repealed)

15-32-401. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 648, L. 1983; amd. Sec. 13, Ch. 591, L. 2001.

15-32-402. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 2, Ch. 648, L. 1983; amd. Sec. 14, Ch. 591, L. 2001; amd. Secs. 4, 5(2)(b), Ch. 524, L. 2003; amd. Sec. 1, Ch. 333, L. 2019.

15-32-403. Repealed. Secs. 4, 5(2), Ch. 609, L. 2003.

History: En. Sec. 3, Ch. 648, L. 1983; amd. Sec. 76, Ch. 42, L. 1997; amd. Sec. 1, Ch. 541, L. 2001; amd. Sec. 15, Ch. 591, L. 2001.

15-32-404. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 4, Ch. 648, L. 1983; amd. Sec. 2, Ch. 541, L. 2001; amd. Sec. 1, Ch. 609, L. 2003.

15-32-405. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 5, Ch. 648, L. 1983; amd. Sec. 8, Ch. 648, L. 1983; amd. Sec. 34, Ch. 114, L. 2003; amd. Sec. 3, Ch. 159, L. 2003; amd. Sec. 15, Ch. 532, L. 2005; amd. Sec. 6, Ch. 584, L. 2005; amd. Sec. 2, Ch. 15, L. 2021.

15-32-406. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 6, Ch. 648, L. 1983.

15-32-407. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 7, Ch. 648, L. 1983.

Part 5
Mineral and Coal Exploration Incentives (Repealed)

15-32-501. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 1, Ch. 538, L. 1999.

15-32-502. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 2, Ch. 538, L. 1999.

15-32-503. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 3, Ch. 538, L. 1999; amd. Sec. 2, Ch. 338, L. 2003.

15-32-504. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 4, Ch. 538, L. 1999.

15-32-505. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 5, Ch. 538, L. 1999.

15-32-506. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 6, Ch. 538, L. 1999.

15-32-507. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 7, Ch. 538, L. 1999; amd. Sec. 3, Ch. 338, L. 2003.

15-32-508. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 8, Ch. 538, L. 1999.

15-32-509. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 9, Ch. 538, L. 1999.

15-32-510. Repealed. Sec. 64, Ch. 503, L. 2021.
History: En. Sec. 10, Ch. 538, L. 1999.

Part 6
Recycling of Material

15-32-601. Definitions. For the purposes of this part, unless otherwise required by the context, the following definitions apply:

(1) "Collect" means the collection and delivery of reclaimable materials to a recycling or reclaimable materials processing facility.

(2) "Postconsumer material" means a product or packaging material that has served its final intended use, that has been discarded by an individual, commercial enterprise, or other entity after having fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term does not include wastes generated during production of an end product.

(3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in 75-10-403.

(4) (a) "Reclaimable material" means material that has useful physical or chemical properties after serving a specific purpose and that would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or manufacturer.

(b) Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered reclaimed by the consumer, processor, or manufacturer that generated the material.

(5) "Recycled material" means a substance that is produced from reclaimed material as provided in 15-32-609.

History: En. Sec. 1, Ch. 712, L. 1991; amd. Sec. 1, Ch. 568, L. 1993; amd. Sec. 1, Ch. 542, L. 1995; amd. Sec. 1, Ch. 398, L. 2001.

15-32-602. Amount and duration of credit — how claimed. (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

(2) Subject to subsection (4), a taxpayer qualifying for a credit under 15-32-603 is entitled to claim a credit, as provided in subsection (3), for the cost of each item of property purchased to collect or process reclaimable material or to manufacture a product from reclaimed material only in the year in which the property was purchased.

(3) The amount of the credit that may be claimed under this section for investments in depreciable property is determined according to the following schedule:

(a) 25% of the cost of the property on the first $250,000 invested;

(b) 15% of the cost of the property on the next $250,000 invested; and

(c) 5% of the cost of the property on the next $500,000 invested.

(4) A credit may not be claimed for investments in depreciable property in excess of $1 million.

History: En. Sec. 2, Ch. 712, L. 1991; amd. Sec. 2, Ch. 542, L. 1995; amd. Sec. 2, Ch. 398, L. 2001.

15-32-603. Credit for investment in property used to collect or process reclaimable material or to manufacture a product from reclaimed material. (1) The following requirements must be met to be entitled to a tax credit for investment in property to collect or process reclaimable material or to manufacture a product from reclaimed material:

(a) The investment must be for depreciable property used primarily to collect or process reclaimable material or to manufacture a product from reclaimed material.

(b) (i) The taxpayer claiming a credit must be a person who, as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that collects or processes reclaimable material or that manufactures a product from reclaimed material. For the purposes of this section, a business qualifies as a business that collects reclaimable material if it gathers reclaimable material for later sale or processing for another business that has as its primary business function the collection or processing of reclaimable material or the manufacture of a product from reclaimed material. The collection of reclaimable material may be a minor or nonprofit part of a business otherwise engaged in a retail trade or other business activity.

(ii) The taxpayer may but need not operate or conduct a business that collects or processes reclaimable material or manufactures a product from reclaimed material. If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable material or manufacturing a product from reclaimed material during the tax year for which the credit is claimed.

(d) The reclaimed material collected, processed, or used to manufacture a product may not be an industrial waste generated by the person claiming the tax credit unless:

(i) the person generating the waste historically has disposed of the waste onsite or in a licensed landfill; and

(ii) standard industrial practice has not generally included the reuse of the waste in the manufacturing process.

(2) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(3) A tax credit otherwise allowable under this section that is not used by the taxpayer in the taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

(4) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(5) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in equipment necessary to collect or process reclaimable material or to manufacture a product from reclaimed material. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

History: En. Sec. 3, Ch. 712, L. 1991; amd. Sec. 3, Ch. 568, L. 1993; amd. Sec. 3, Ch. 542, L. 1995; amd. Sec. 3, Ch. 398, L. 2001.

15-32-604. Limitation of credit. Notwithstanding the provisions of 15-32-602 and 15-32-603, a tax credit may not be claimed for an investment in property used to produce energy from reclaimed material.

History: En. Sec. 4, Ch. 712, L. 1991.

15-32-605 through 15-32-608 reserved.

15-32-609. Recycled material qualifying for deduction — purpose — rulemaking. (1) The purpose of providing a tax deduction for the purchase of recycled materials is to encourage the use of goods made from reclaimed materials, especially postconsumer materials, and to discourage consumption of the same goods made from new materials. To achieve this goal, the definition of recycled material must be left to department of revenue expertise. Definitions cannot be legislatively enacted to achieve the purpose of this section because of rapid changes in technology, social awareness, and market economics. It is the intent of the legislature that the department revise, as often as it considers necessary to fulfill the purpose of this section, the definition of qualifying recycled material.

(2) The department shall by rule adopted pursuant to 15-32-611 specify recycled material that qualifies for the deduction authorized by 15-32-610. The department shall classify qualifying recycled material into different categories based upon the reclaimed material used in producing the recycled material, the ultimate use of the recycled material produced from the reclaimed material, and the amount and type of reclaimed material the recycled material must contain. In the definition of recycled material, the department may consider the point in the manufacturing and consumption cycle from which material was reclaimed and other factors contributing to precise definitions.

(3) In addition to the public participation provisions of Title 2, chapter 4, the department shall establish a register of interested persons and experts in the field of recycling. Prior to proposing an administrative rule, the department shall mail a notice to the interested persons of the department's contemplated actions, soliciting their views on possible solutions or courses of action. All proposed and adopted rules must also be mailed to the interested persons.

(4) The rules must specify the unit of measurement for classifications of recycled materials. The measurement may be based upon volume, weight, fiber content, or other applicable standard.

(5) The department shall by rule designate one or more agencies that are generally recognized in the industry to certify the contents of recycled materials.

History: En. Sec. 2, Ch. 568, L. 1993.

15-32-610. Deduction for purchase of recycled material. In addition to all other deductions from Montana taxable income allowed in computing taxable income under Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct an additional amount equal to 10% of the taxpayer's expenditures for the purchase of recycled material that was otherwise deductible by the taxpayer as business-related expense in Montana.

History: En. Sec. 5, Ch. 712, L. 1991; amd. Sec. 4, Ch. 568, L. 1993; amd. Sec. 33, Ch. 503, L. 2021.

15-32-611. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of this part.

History: En. Sec. 6, Ch. 712, L. 1991.

Part 7
Biodiesel Production
(Repealed)

15-32-701. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 524, L. 2005; amd. Sec. 1, Ch. 168, L. 2007.

15-32-702. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 2, Ch. 524, L. 2005; amd. Sec. 2, Ch. 168, L. 2007.

15-32-703. Repealed. Sec. 64, Ch. 503, L. 2021.

History: En. Sec. 1, Ch. 525, L. 2005; amd. Sec. 3, Ch. 168, L. 2007; amd. Sec. 3, Ch. 3, L. 2015; amd. Sec. 13, Ch. 163, L. 2019; amd. Sec. 1, Ch. 12, L. 2021; amd. Sec. 35, Ch. 261, L. 2021.

CHAPTER 33
SMALL BUSINESS INVESTMENT INCENTIVES

Part 1 — Small Business Investment Companies — Tax Exemptions

15-33-101. Short title.
15-33-102. Purpose.
15-33-103. Definition.
15-33-104. Reporting — recordkeeping by the department.
15-33-105. Rulemaking authority.
15-33-106. Capital gains — dividends exempted.

Part 1
Small Business Investment Companies — Tax Exemptions

15-33-101. Short title. This part may be cited as the "Small Business Investment Incentive Act".

History: En. Sec. 1, Ch. 571, L. 1981.

15-33-102. Purpose. The purpose of this part is to encourage private sector investment in venture capital firms called small business investment companies that are organized for the purpose of diversifying and strengthening employment opportunities of companies within Montana. This part, by establishing limited tax exemptions, demonstrates a recognition by the legislature that significant incentives must be offered to attract private risk capital to manufacturing, technology, technology infrastructure, power generation, agricultural, and timber product processing companies. The legislature further recognizes the necessity of tax incentives for investors in manufacturing, technology, technology infrastructure, power generation, agricultural, and timber product processing companies.

History: En. Sec. 2, Ch. 571, L. 1981; amd. Sec. 1, Ch. 523, L. 2001.

15-33-103. Definition. For the purposes of this part, "small business investment company" or "SBIC" means a small business investment company as defined in section 103 of the federal Small Business Investment Act of 1958, as amended.

History: En. Sec. 3, Ch. 571, L. 1981.

15-33-104. Reporting — recordkeeping by the department. The presiding officer or president of each small business investment company shall report on a form established by the department on a monthly basis the name of each investor, the amount of the investment made, and the date of investment.

History: En. Sec. 4, Ch. 571, L. 1981; amd. Sec. 180, Ch. 56, L. 2009.

15-33-105. Rulemaking authority. The department of revenue may adopt rules necessary to carry out the provisions of this part.

History: En. Sec. 5, Ch. 571, L. 1981.

15-33-106. Capital gains — dividends exempted. Any capital gains or dividend income realized by an individual or a corporation from an investment in an SBIC organized in accordance with this part is exempt from taxation under the provisions of Title 15, chapters 30 and 31.

History: En. Sec. 6, Ch. 571, L. 1981.

CHAPTER 34
COAL PRODUCER'S LICENSE TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-34-101. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 8, Ch. 563, L. 1999.

15-34-102. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 9, Ch. 563, L. 1999.

15-34-103. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 10, Ch. 563, L. 1999.

15-34-104. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 7, Ch. 563, L. 1999.

15-34-105. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 12, Ch. 563, L. 1999.

15-34-106 through 15-34-109 reserved.

15-34-110. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 11, Ch. 563, L. 1999.

15-34-111. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 13, Ch. 563, L. 1999.

15-34-112. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 14, Ch. 563, L. 1999.

15-34-113 and 15-34-114 reserved.

15-34-115. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 16, Ch. 563, L. 1999; amd. Secs. 22, 24, Ch. 563, L. 1999.

15-34-116. Repealed. Sec. 84, Ch. 7, L. 2001.
History: En. Sec. 15, Ch. 563, L. 1999.

CHAPTER 35
COAL SEVERANCE TAX

Part 1 — General Provisions

15-35-101. Legislative findings and declarations of purpose.
15-35-102. Definitions.
15-35-103. Severance tax — rates imposed.
15-35-104. Quarterly statement and payment of tax.
15-35-105. Penalty and interest for delinquent tax — waiver.
15-35-106. Annual testing of samples.
15-35-107. When value of coal may be imputed — procedure.
15-35-108. Disposal of severance taxes.
15-35-109. Repealed.
15-35-110. Renumbered 15-35-121.
15-35-111. Renumbered 15-35-122.
15-35-112. Deficiency assessment — review — penalty and interest.
15-35-113. Credit for overpayment — interest on overpayment.
15-35-114. Statute of limitations.
15-35-115 through 15-35-120 reserved.
15-35-121. Penalties for neglect or false statement.
15-35-122. Rulemaking authority.

Part 2 — New Coal Production Incentive Tax Credit Act (Repealed)

Chapter Cross-References
Coal tax trust fund, Art. IX, sec. 5, Mont. Const.
Coal gross proceeds tax, Title 15, ch. 23, part 7.
Resource indemnity trust tax, Title 15, ch. 38.
Coal Tax Oversight Committee, Ch. 619, L. 1979.

Part 1
General Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-35-101. Legislative findings and declarations of purpose. (1) The legislature finds that although coal is extracted from the earth like metal minerals, there are differences between coal and metal minerals so that they should be classified in different categories for taxation purposes. The legislature finds that although coal can be used like petroleum products, there are differences between coal and petroleum so that they should be classified in different categories for taxation purposes. The legislature further finds that:

(a) coal is the only mineral that can supply energy while being easily found in abundance in Montana;

(b) coal is the only mineral that is so often marketed through sales contracts of many years' duration;

(c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;

(d) coal in Montana is subject to regional and national demands for development that could affect the economy and environment of a larger portion of the state than any other mineral development has done;

(e) subbituminous coal and lignite coal in Montana have sufficiently different markets and value and therefore require different production taxes;

(f) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip-mine producers can pay;

(g) coal production in Montana has been subject to an uncoordinated array of taxes that overlap one another and yield revenue in an inconsistent and unpredictable manner; and

(h) coal used for the production of electricity near the coal mine by modern generating plants has significant statewide and nationwide economic, transportation, and environmental advantages that allow different production taxes.

(2) The legislature declares that the purposes of this chapter are to:

(a) allow the severance taxes on coal production to remain a constant percentage of the price of coal;

(b) stabilize the flow of tax revenue from coal mines to local governments through the property taxation system;

(c) simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections;

(d) recognize the economic, transportation, and environmental advantages of electrical generation by modern electrical generation plants near coal mines; and

(e) accomplish the purposes of this subsection (2) by establishing categories of taxation that recognize the unique character of coal, as well as the variations found within the coal industry, and by encouraging the use of coal to produce electricity in modern generating plants near the coal mine.

History: En. 84-1312 by Sec. 1, Ch. 525, L. 1975; R.C.M. 1947, 84-1312; amd. Sec. 1, Ch. 608, L. 1987; amd. Sec. 1, Ch. 399, L. 2001.

15-35-102. *(Temporary)* **Definitions.** As used in this chapter, the following definitions apply:

(1) "Agreement" means a signed contract that is valid under Montana law between a coal mine operator and a purchaser or broker for the sale of coal that is produced in Montana.

(2) "Auger mining" means the method of recovering coal by boring with an auger into a coal bed prepared by strip-mining excavations or in naturally sloping terrain. Auger mining is used when the ratio of overburden to coal does not allow the economical recovery of coal.

(3) "Broker" means any person who resells Montana coal.

(4) "Coal washing" means any treatment to remove impurities from underground mined coal. Coal washing may include but is not limited to operations such as flotation, air, water, or heavy media separation, drying, and related handling.

(5) "Contract sales price" means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-35-107. Contract sales price includes all royalties paid on production, no matter how the royalties are calculated. However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes 15 cents per ton. Contract sales price does not include the costs specific to the act of coal washing.

(6) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electrical energy, or any other form of energy.

(7) "Prepared for shipment" includes but is not limited to services such as in-mine movement, crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal for disposition.

(8) "Produced" means severed from the earth.

(9) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of this chapter.

(10) "Strip mining" is defined in 82-4-203 and includes "surface mining".

(11) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.

(12) "Ton" means 2,000 pounds.

(13) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203. *(Terminates July 1, 2027—sec. 1, Ch. 599, L. 2025, sec. 3, Ch. 599, L. 2025.)*

15-35-102. *(Effective July 2, 2027)* **Definitions.** As used in this chapter, the following definitions apply:

(1) "Agreement" means a signed contract that is valid under Montana law between a coal mine operator and a purchaser or broker for the sale of coal that is produced in Montana.

(2) "Auger mining" means the method of recovering coal by boring with an auger into a coal bed prepared by strip-mining excavations or in naturally sloping terrain. Auger mining is used when the ratio of overburden to coal does not allow the economical recovery of coal.

(3) "Broker" means any person who resells Montana coal.

(4) "Contract sales price" means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-35-107. Contract sales price includes all royalties paid on production, no matter how the royalties are calculated. However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes 15 cents per ton.

(5) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electrical energy, or any other form of energy.

(6) "Prepared for shipment" includes but is not limited to services such as in-mine movement, crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal for disposition.

(7) "Produced" means severed from the earth.

(8) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of this chapter.

(9) "Strip mining" is defined in 82-4-203 and includes "surface mining".

(10) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or

buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.

(11) "Ton" means 2,000 pounds.

(12) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203.

History: En. 84-1313 by Sec. 2, Ch. 525, L. 1975; amd. Sec. 1, Ch. 156, L. 1977; R.C.M. 1947, 84-1313; amd. Sec. 1, Ch. 377, L. 1983; amd. Sec. 2, Ch. 636, L. 1985; amd. Sec. 51, Ch. 370, L. 1987; amd. Sec. 2, Ch. 608, L. 1987; amd. Sec. 1, Ch. 31, L. 1989; amd. Sec. 1, Ch. 580, L. 1993; amd. Sec. 1, Ch. 318, L. 1995; amd. Sec. 21, Ch. 7, L. 2001; amd. Sec. 11, Ch. 44, L. 2007; amd. Sec. 1, Ch. 318, L. 2009; amd. Sec. 3, Ch. 433, L. 2009.

Compiler's Comments

Extension of Termination Date: Section 1, Ch. 599, L. 2025, and sec. 3, Ch. 599, L. 2025, amended sec. 7, Ch. 433, L. 2009, and sec. 1, Ch. 352, L. 2015, by extending the termination dates imposed by those sections to July 1, 2027. Effective May 13, 2025.

15-35-103. Severance tax — rates imposed. (1) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality (Btu per pound of coal):	Surface Mining	Auger Mining	Underground Mining
Under 7,000	10% of value	3.75% of value	3% of value
7,000 and over	15% of value	5% of value	4% of value

(2) "Value" means the contract sales price.

(3) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(4) The reduced tax rate on coal produced by auger mining applies only to coal recovered from a mining operation that would otherwise be uneconomical to recover by conventional strip-mining methods as specified in the coal conservation plan submitted to and approved by the department of environmental quality under the provisions of Title 82, chapter 4, part 2.

History: En. 84-1314 by Sec. 3, Ch. 525, L. 1975; amd. Sec. 1, Ch. 164, L. 1977; R.C.M. 1947, 84-1314; amd. Sec. 2, Ch. 303, L. 1983; amd. Sec. 7, Ch. 636, L. 1985; amd. Sec. 3, Ch. 608, L. 1987; amd. Sec. 2, Ch. 31, L. 1989; amd. Sec. 2, Ch. 580, L. 1993; amd. Sec. 2, Ch. 318, L. 1995; amd. Sec. 34, Ch. 51, L. 1999; amd. Sec. 2, Ch. 399, L. 2001; amd. Sec. 1, Ch. 415, L. 2005; amd. Sec. 2, Ch. 318, L. 2009.

Cross-References

Property tax — mineral exemptions, 15-6-208.

15-35-104. Quarterly statement and payment of tax. Each coal mine operator shall compute the severance tax due on production for each calendar quarter on forms prescribed by the department. The statement must show the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and other information that the department may require. The completed form, with the tax payment, must be delivered to the department not later than 30 days following the close of the quarter. The form must be signed by the operator if the operator is an individual or by an officer of the coal mine operator if the operator is a business entity. A person operating more than one coal mine in this state may include all of the person's mines in one statement. The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown.

History: En. 84-1315 by Sec. 4, Ch. 525, L. 1975; R.C.M. 1947, 84-1315; amd. Sec. 1, Ch. 334, L. 1981; amd. Sec. 4, Ch. 608, L. 1987; amd. Sec. 181, Ch. 56, L. 2009; amd. Sec. 1, Ch. 364, L. 2009.

Cross-References

Coordination with statement required under coal gross proceeds tax, 15-23-704.

15-35-105. Penalty and interest for delinquent tax — waiver. (1) The department shall add to the amount of all delinquent severance taxes penalty and interest as provided in 15-1-216.

(2) The department shall mail to the person required to file a quarterly report and pay any severance tax, a letter setting forth the amount of tax, penalty, and interest due. The letter must contain a statement that if payment is not made, a warrant for distraint may be filed.

(3) A penalty may be waived by the department pursuant to 15-1-206.

History: En. 84-1316 by Sec. 5, Ch. 525, L. 1975; R.C.M. 1947, 84-1316; amd. Sec. 16, Ch. 439, L. 1981; amd. Sec. 15, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Warrant for distraint, Title 15, ch. 1, part 7.

15-35-106. Annual testing of samples. The Montana state bureau of mines and geology shall test coal production subject to this chapter and may make rules governing the collection of test data. A person subject to this chapter shall submit to the bureau on or before August 1 each year a sample of mine-run, "as is" coal from each mine producing that year. Additional samples shall be submitted at the request of the bureau. The bureau shall compute the Btu per pound of each sample received and forward this information to the department prior to September 1 each year.

History: En. 84-1317 by Sec. 6, Ch. 525, L. 1975; R.C.M. 1947, 84-1317.

15-35-107. When value of coal may be imputed — procedure. (1) The department may impute a value to the coal that approximates market value f.o.b. mine in a case where:

(a) the operator of a coal mine is using the produced coal in an energy-conversion or other manufacturing process; or

(b) a person sells coal under a contract that is not an arm's-length agreement.

(2) For purposes of subsection (1), "market value f.o.b. mine" means the value of the coal subsequent to being prepared for shipment on the mode of transportation taken to its final destination.

(3) When imputing value, the department may apply the factors used by the federal government under 26 U.S.C. 613, or that provision as it may be labeled or amended, in determining gross income from mining or the department may apply any other or additional criteria it considers appropriate. Each subject taxpayer shall upon request by the department furnish a copy of its federal income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested in any proceeding, the burden of proof is on the contesting party.

History: En. 84-1318 by Sec. 7, Ch. 525, L. 1975; R.C.M. 1947, 84-1318; amd. Sec. 1, Ch. 326, L. 1983; amd. Sec. 4, Ch. 433, L. 2009.

Cross-References

Estimating value upon failure to file gross proceeds return, 15-23-104.

15-35-108. *(Temporary)* **Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range building program account established in 17-7-221.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) After the allocations are made under subsections (2) through (10), $2 million for the fiscal year must be credited to the town of Colstrip water infrastructure mitigation account established in 75-8-305.

(12) (a) Subject to subsection (12)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) to the department of agriculture:

(A) $65,000 for the cooperative development center;

(B) $900,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(C) $600,000 for the Montana food and agricultural development program provided for in Title 80, chapter 11;

(ii) to the department of commerce:

(A) $325,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $625,000 for certified regional development corporations;

(D) $500,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement. *(Terminates June 30, 2027—secs. 13, 15, 18, Ch. 343, L. 2019.)*

15-35-108. *(Effective July 1, 2027)* **Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range building program account established in 17-7-221.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding

unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) After the allocations are made under subsections (2) through (10), $2 million for the fiscal year must be credited to the town of Colstrip water infrastructure mitigation account established in 75-8-305.

(12) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

History: **En. 84-1309.1 by Sec. 2, Ch. 432, L. 1973; amd. Sec. 1, Ch. 250, L. 1974; amd. Sec. 4, Ch. 501, L. 1975; amd. Sec. 3, Ch. 502, L. 1975; amd. and redes. 84-1319 by Sec. 8, Ch. 525, L. 1975; amd. Sec. 2, Ch. 156, L. 1977; amd. Sec. 1, Ch. 540, L. 1977; amd. Sec. 2, Ch. 549, L. 1977; R.C.M. 1947, 84-1319; amd. Sec. 1, Ch. 653, L. 1979; amd. Sec. 1, Ch. 694, L. 1979; amd. Sec. 1, Ch. 479, L. 1981; amd. Sec. 43, Ch. 505, L. 1981; amd. Sec. 3, Ch. 281, L. 1983; amd. Sec. 5, Ch. 541, L. 1983; amd. Sec. 1, Ch. 246, L. 1985; amd. Sec. 1, Ch. 715, L. 1985; amd. Sec. 1, Ch. 3, Sp. L. June 1986; amd. Sec. 1, Ch. 19, Sp. L. June 1986; amd. Sec. 1, Ch. 662, L. 1987; amd. Sec. 17, Ch. 83, L. 1989; amd. Sec. 1, Ch. 626, L. 1989; amd. Sec. 4, Ch. 11, Sp. L. June 1989; amd. Sec. 13, Ch. 16, L. 1991; amd. Sec. 3, Ch. 191, L. 1991; amd. Sec. 1, Ch. 615, L. 1991; amd. Sec. 1, Ch. 8, Sp. L. January 1992; amd. Sec. 1, Ch. 16, Sp. L. January 1992; amd. Sec. 5, Ch. 455, L. 1993; amd. Sec. 1, Ch. 536, L. 1993; amd. Sec. 12, Ch. 18, L. 1995; amd. Sec. 1, Ch. 442, L. 1995; amd. Sec. 1, Ch. 456, L. 1995; amd. Sec. 7, Ch. 509, L. 1995; amd. Sec. 9, Ch. 422, L. 1997; amd. Sec. 10, Ch. 469, L. 1997; amd. Sec. 8, Ch. 389, L. 1999; amd. Secs. 1, 2, Ch. 10, Sp. L. May 2000; amd. Secs. 3, 38, Ch. 34, L. 2001; amd. Sec. 1, Ch. 61, L. 2001; amd. Sec. 41, Ch. 483, L. 2001; amd. Sec. 2, Ch. 9, Sp. L. August 2002; amd. Sec. 1, Ch. 12, Sp. L. August 2002; amd. Sec. 7, Ch. 13, Sp. L. August 2002; amd. Sec. 1, Ch. 32, L. 2003; amd. Sec. 2, Ch. 351, L. 2003; amd. Secs. 1, 4, Ch. 481, L. 2003; amd. Sec. 1, Ch. 589, L. 2005; amd. Secs. 2, 8(1), Ch. 603, L. 2005; amd. Sec. 1, Ch. 280, L. 2007; amd. Sec. 2, Ch. 475, L. 2007; amd. Sec. 1, Ch. 33, L. 2009; amd. Sec. 1, Ch. 425, L. 2009; amd. Sec. 1, Ch. 459, L. 2009; amd. Sec. 7, Ch. 486, L. 2009; amd. Sec. 7, Ch. 19, L. 2011; amd. Sec. 4, Ch. 312, L. 2011; amd. Sec. 1, Ch. 390, L. 2013; amd. Sec. 6, Ch. 347, L. 2015; amd. Sec. 1, Ch. 414, L. 2015; amd. Sec. 8, Ch. 351, L. 2017; amd. Sec. 1, Ch. 378, L. 2017; amd. Sec. 5, Ch. 343, L. 2019; amd. Sec. 1, Ch. 464, L. 2019; amd. Sec. 7, Ch. 469, L. 2019; amd. Sec. 1, Ch. 248, L. 2023; amd. Sec. 2, Ch. 771, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 771, L. 2025. Amendment effective October 1, 2025.

Cross-References

Coal tax trust fund, Art. IX, sec. 5, Mont. Const.

Genetic engineering technology research and development account — Montana State University-Bozeman, 17-2-131.

Permissible investments of funds allocated to coal tax trust fund, 17-6-211.

Appropriation to state equalization aid, 20-9-343.

Duties of Advisory Committee — cultural and aesthetic projects, Title 22, ch. 2, part 3.

Cultural and aesthetic projects grants, 22-2-301.

Acquisition of certain state parks, monuments, or historic sites, 23-1-108.

Legislative approval of siting of uranium conversion and enrichment facilities — conditions, 75-20-206.

Disposition of funds allocated to local impact and education trust fund account and coal area highway improvement account, Title 90, ch. 6, part 2.

Coal area highway improvement account created, 90-6-202.

Local impact and education trust fund account created, 90-6-202.

15-35-109. Repealed. Sec. 1, Ch. 407, L. 1981.

History: **En. 84-1325 by Sec. 18, Ch. 525, L. 1975; R.C.M. 1947, 84-1325.**

15-35-110. Renumbered 15-35-121. Code Commissioner, 1983.

15-35-111. Renumbered 15-35-122. Code Commissioner, 1983.

15-35-112. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a

return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 13, Ch. 811, L. 1991; amd. Sec. 16, Ch. 427, L. 1999; amd. Sec. 18, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-35-113. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law may not be considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 17, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-35-114. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-35-115 through 15-35-120 reserved.

15-35-121. Penalties for neglect or false statement. A person who fails, neglects, or refuses to file any statement required under this chapter or who makes a false statement commits a misdemeanor. A person convicted under this section shall be fined not to exceed $1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

History: En. 84-1324 by Sec. 13, Ch. 525, L. 1975; R.C.M. 1947, 84-1324; MCA 1981, 15-35-110; redes. 15-35-121 by Code Commissioner, 1983.

15-35-122. Rulemaking authority. The department of revenue may adopt rules necessary for the taxation of property under this chapter.

History: En. Sec. 32, Ch. 581, L. 1979; MCA 1981, 15-35-111; redes. 15-35-122 by Code Commissioner, 1983.

Part 2
New Coal Production Incentive Tax Credit Act (Repealed)

15-35-201. Repealed. Sec. 98, Ch. 51, L. 1999.

History: En. Sec. 1, Ch. 636, L. 1985.

15-35-202. Repealed. Sec. 98, Ch. 51, L. 1999.

History: En. Sec. 3, Ch. 636, L. 1985; amd. Sec. 5, Ch. 608, L. 1987; amd. Sec. 3, Ch. 31, L. 1989.

15-35-203. Repealed. Sec. 98, Ch. 51, L. 1999.

History: En. Sec. 4, Ch. 636, L. 1985; amd. Sec. 6, Ch. 608, L. 1987.

15-35-204. Repealed. Sec. 98, Ch. 51, L. 1999.

History: En. Sec. 5, Ch. 636, L. 1985.

15-35-205. Repealed. Sec. 98, Ch. 51, L. 1999.

History: En. Sec. 6, Ch. 636, L. 1985.

CHAPTER 36
OIL AND GAS PRODUCTION TAX

Part 1 — General Provisions (Repealed)

Part 2 reserved

Part 3 — Oil and Gas Production Tax Act

15-36-301. Short title.
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15-36-313. Procedure to compute tax in absence of statement — estimation of tax — failure to file penalty and interest.
15-36-314. Deficiency assessment — review — penalty and interest.
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15-36-321. Statute of limitations.
15-36-322. Rulemaking authority.
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15-36-324. Repealed.
15-36-325. Repealed.
15-36-326. Oil and natural gas accelerated tax fund.
15-36-327 through 15-36-330 reserved.
15-36-331. Distribution of taxes.
15-36-332. Distribution of taxes to taxing units — appropriation.

Part 1
General Provisions
(Repealed)

15-36-101. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 2, Ch. 266, L. 1921; re-en. Sec. 2398, R.C.M. 1921; amd. Sec. 1, Ch. 67, L. 1923; re-en. Sec. 2398, R.C.M. 1935; amd. Sec. 1, Ch. 221, L. 1957; amd. Sec. 1, Ch. 172, L. 1959; amd. Sec. 1, Ch. 359, L. 1969; amd. Sec. 1, Ch. 245, L. 1975; amd. Sec. 1, Ch. 262, L. 1975; amd. Sec. 1, Ch. 412, L. 1975; amd. Sec. 8, Ch. 156, L. 1977; amd. Sec. 1, Ch. 160, L. 1977; amd. Sec. 3, Ch. 256, L. 1977; R.C.M. 1947, 84-2202; amd. Sec. 1, Ch. 536, L. 1981; amd. Sec. 1, Ch. 671, L. 1983; amd. Sec. 1, Ch. 724, L. 1985; amd. Sec. 3, Ch. 656, L. 1987; amd. Sec. 1, Ch. 589, L. 1989; amd. Sec. 78, Ch. 11, Sp. L. June 1989; amd. Sec. 1, Ch. 3, Sp. L. May 1990; amd. Exec. Ord. 12-90, implementing Sec. 7, Ch. 656, L. 1987; amd. Sec. 7, Ch. 267, L. 1991; amd. Sec. 1, Ch. 597, L. 1991; amd. Sec. 1, Ch. 299, L. 1993; amd. Sec. 9, Ch. 9, Sp. L. November 1993; amd. Sec. 1, Ch. 571, L. 1995; amd. Sec. 1, Ch. 581, L. 1995.

15-36-102. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 3, Ch. 266, L. 1921; re-en. Sec. 2399, R.C.M. 1921; amd. Sec. 2, Ch. 67, L. 1923; re-en. Sec. 2399, R.C.M. 1935; amd. Sec. 8, Ch. 14, L. 1941; amd. Sec. 113, Ch. 516, L. 1973; amd. Sec. 2, Ch. 245, L. 1975; amd. Sec. 2, Ch. 262, L. 1975; R.C.M. 1947, 84-2203; amd. Sec. 79, Ch. 11, Sp. L. June 1989.

15-36-103. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 4, Ch. 266, L. 1921; re-en. Sec. 2400, R.C.M. 1921; amd. Sec. 3, Ch. 67, L. 1923; re-en. Sec. 2400, R.C.M. 1935; amd. Sec. 114, Ch. 516, L. 1973; amd. Sec. 3, Ch. 245, L. 1975; R.C.M. 1947, 84-2204.

15-36-104. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 6, Ch. 266, L. 1921; re-en. Sec. 2402, R.C.M. 1921; amd. Sec. 5, Ch. 67, L. 1923; re-en. Sec. 2402, R.C.M. 1935; amd. Sec. 116, Ch. 516, L. 1973; amd. Sec. 4, Ch. 245, L. 1975; amd. Sec. 9, Ch. 156, L. 1977; R.C.M. 1947, 84-2206; amd. Sec. 122, Ch. 27, Sp. L. November 1993.

15-36-105. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 7, Ch. 266, L. 1921; re-en. Sec. 2403, R.C.M. 1921; amd. Sec. 6, Ch. 67, L. 1923; re-en. Sec. 2403, R.C.M. 1935; amd. Sec. 1, Ch. 449, L. 1973; amd. Sec. 117, Ch. 516, L. 1973; amd. Sec. 5, Ch. 245, L. 1975; amd. Sec. 4, Ch. 256, L. 1977; R.C.M. 1947, 84-2207; amd. Sec. 2, Ch. 334, L. 1981; amd. Sec. 1, Ch. 258, L. 1985; amd. Sec. 80, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 597, L. 1991; amd. Sec. 14, Ch. 811, L. 1991.

15-36-106. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 8, Ch. 266, L. 1921; re-en. Sec. 2404, R.C.M. 1921; amd. Sec. 7, Ch. 67, L. 1923; re-en. Sec. 2404, R.C.M. 1935; R.C.M. 1947, 84-2208.

15-36-107. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 9, Ch. 266, L. 1921; re-en. Sec. 2405, R.C.M. 1921; amd. Sec. 8, Ch. 67, L. 1923; re-en. Sec. 2405, R.C.M. 1935; amd. Sec. 1, Ch. 328, L. 1969; amd. Sec. 118, Ch. 516, L. 1973; amd. Sec. 6, Ch. 245, L. 1975; amd. Sec. 3, Ch. 262, L. 1975; R.C.M. 1947, 84-2209; amd. Sec. 17, Ch. 439, L. 1981; amd. Sec. 3, Ch. 93, L. 1983; amd. Sec. 2, Ch. 258, L. 1985; amd. Sec. 3, Ch. 597, L. 1991.

15-36-108. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. 84-2209.1 by Sec. 4, Ch. 262, L. 1975; amd. Sec. 10, Ch. 156, L. 1977; R.C.M. 1947, 84-2209.1; amd. Sec. 18, Ch. 439, L. 1981; amd. Sec. 4, Ch. 597, L. 1991.

15-36-109. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 11, Ch. 266, L. 1921; re-en. Sec. 2407, R.C.M. 1921; re-en. Sec. 2407, R.C.M. 1935; R.C.M. 1947, 84-2210; amd. Sec. 27, Ch. 581, L. 1979.

15-36-110. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 12, Ch. 266, L. 1921; re-en. Sec. 2408, R.C.M. 1921; re-en. Sec. 2408, R.C.M. 1935; R.C.M. 1947, 84-2211.

15-36-111. Repealed. Sec. 4, Ch. 334, L. 1981.

History: En. Sec. 5, Ch. 266, L. 1921; re-en. Sec. 2401, R.C.M. 1921; amd. Sec. 4, Ch. 67, L. 1923; re-en. Sec. 2401, R.C.M. 1935; amd. Sec. 115, Ch. 516, L. 1973; R.C.M. 1947, 84-2205.

15-36-112. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 1, Ch. 700, L. 1979; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 2, Ch. 114, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 2, Ch. 707, L. 1983; amd. Sec. 11, Ch. 703, L. 1985; amd. Sec. 13, Ch. 611, L. 1987; amd. Sec. 81, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 3, Sp. L. May 1990; amd. Sec. 2, Ch. 610, L. 1991; amd. Sec. 28, Ch. 10, L. 1993; amd. Sec. 6, Ch. 455, L. 1993; amd. Sec. 13, Ch. 18, L. 1995; amd. Sec. 1, Ch. 453, L. 1995.

15-36-113. Repealed. Sec. 50, Ch. 451, L. 1995.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 5, Ch. 597, L. 1991; amd. Sec. 15, Ch. 811, L. 1991.

15-36-114. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 6, Ch. 597, L. 1991.

15-36-115 through 15-36-119 reserved.

15-36-120. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 1, Ch. 536, L. 1989.

15-36-121. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. 84-2212, 84-2213 by Secs. 1, 2, Ch. 256, L. 1977; R.C.M. 1947, 84-2212, 84-2213(part); amd. Sec. 1, Ch. 265, L. 1981; amd. Sec. 1, Ch. 124, L. 1983; amd. Secs. 4, 6, Ch. 656, L. 1987; amd. Sec. 82, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 3, Sp. L. May 1990; amd. Exec. Ord. 9-90 and 12-90, implementing Sec. 7, Ch. 656, L. 1987; amd. Sec. 7, Ch. 597, L. 1991; amd. Sec. 2, Ch. 571, L. 1995; amd. Sec. 2, Ch. 581, L. 1995.

15-36-122. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 1, Ch. 194, L. 1983.

15-36-123 through 15-36-125 reserved.

15-36-126. Repealed. Sec. 50, Ch. 451, L. 1995.
History: En. Sec. 5, Ch. 15, Sp. L. July 1992; amd. Sec. 1, Ch. 368, L. 1993; amd. Sec. 7, Ch. 455, L. 1993.

Part 2 reserved

Part 3
Oil and Gas Production Tax Act

Part Cross-References
Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-36-301. Short title. This part may be cited as the "Montana Oil and Natural Gas Production Tax Act".
History: En. Sec. 1, Ch. 451, L. 1995.

15-36-302. Legislative findings and declaration of purpose. (1) (a) The legislature finds that the extraction taxes imposed on the production of oil and natural gas have been exceedingly complex and confusing. Oil and natural gas producers have been required to file several tax forms and to pay taxes at different times on the same production.

(b) The legislature further finds that it is in the best interest of the state and in the best interest of oil and gas producers to simplify the taxation of oil and natural gas production.

(2) The legislature declares that the purposes of this part are:

(a) to replace all net proceeds taxes, severance taxes, privilege and license taxes, and other extraction taxes on oil and natural gas production with a single production tax based on the type of well and type of production;

(b) to ensure that the distribution of tax revenue to the state, counties, and school districts from the new production taxes is consistent with the distribution of tax revenue from the former extraction taxes;

(c) to simplify the procedures for compliance with and the administration of the taxation of oil and natural gas production;

(d) to provide an incentive for oil and natural gas producers to pay 1995 local government severance taxes on an accelerated basis; and

(e) to provide discretionary authority to counties and school districts for the use of the accelerated payments of the local government severance tax.
History: En. Sec. 2, Ch. 451, L. 1995.

15-36-303. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of revenue provided for in 2-15-1301.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

(6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

(7) "Horizontal drain hole" means that portion of a wellbore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.

(8) "Horizontally completed well" means:

(a) a well with one or more horizontal drain holes; or

(b) any other well classified by the board as a horizontally completed well.

(9) "Incremental production" means:

(a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery recompleted as a horizontally completed well, by recompletion of an existing horizontal drain hole, or by an expanded enhanced recovery project, that is in excess of the production decline rate established under the conditions existing before:

(i) commencing the recompletion of a well as a horizontally completed well;

(ii) expanding the existing enhanced recovery project; or

(iii) commencing a new enhanced recovery project; or

(b) in the case of any project that had no taxable production prior to commencing the enhanced recovery project, all production of oil from the enhanced recovery project.

(10) "Natural gas" or "gas" means all natural gases, hydrocarbon gases, all forms of inert gas, and all other fluid hydrocarbons as produced at the wellhead and not defined as oil under 82-1-111.

(11) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.

(12) "Nonworking interest owner" means any interest owner who does not share in the exploration, development, and operation costs of the lease or unit, except for production taxes.

(13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the wellhead.

(14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil or natural gas is extracted or produced.

(15) (a) "Post-1999 stripper well" means an oil well drilled on or after January 1, 1999, that produces more than 3 barrels but fewer than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel of crude oil reported and received by the producer for Montana oil marketed during a calendar quarter is less than $30. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter.

(b) The average price for a barrel is computed by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was reported in the quarter.

(c) Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and then dividing the resulting quotient by 365.

(16) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying as a post-1999 well.

(17) (a) "Pre-1999 stripper well" means an oil well that was drilled before January 1, 1999, that produces more than 3 barrels a day but fewer than 10 barrels a day.

(b) Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and then dividing the resulting quotient by 365.

(18) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

(19) "Primary recovery" means the displacement of oil from the earth into the wellbore by means of the natural pressure of the oil reservoir and includes artificial lift.

(20) "Production decline rate" means the projected rate of future oil or natural gas production, extrapolated by a method approved by the board, that must be determined for a project area prior to commencing a new or expanded enhanced recovery project or the recompletion of a well as a horizontally completed well or the recompletion of an existing horizontal drain hole. The approved production decline rate must be certified in writing to the department by the board. In that certification, the board shall identify the project area and shall specify the projected rate of future oil production by calendar year and by calendar quarter within each year. The certified rate of future oil production must be used to determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

(21) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying production.

(b) Qualifying production does not include oil production from a horizontally recompleted well.

(22) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following requirements:

(a) The project must be certified as a secondary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated according to the specifications required by the board.

(c) The project must involve the application of secondary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary recovery methods include but are not limited to:

(i) the injection of water into the producing formation for the purposes of maintaining pressure in that formation or for the purpose of increasing the flow of oil from the producing formation to a producing wellbore; or

(ii) any other method approved by the board as a secondary recovery method.

(23) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(24) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be determined as provided in subsection (15)(c).

(25) "Tertiary recovery project" means an enhanced recovery project, other than a secondary recovery project, using a tertiary recovery method that meets the following requirements:

(a) The project must be certified as a tertiary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated in the certification according to the specifications required by the board.

(c) The project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary recovery methods include but are not limited to:

(i) miscible fluid displacement;
(ii) steam drive injection;
(iii) micellar/emulsion flooding;
(iv) in situ combustion;
(v) polymer augmented water flooding;
(vi) cyclic steam injection;
(vii) alkaline or caustic flooding;
(viii) carbon dioxide water flooding;
(ix) immiscible carbon dioxide displacement; and
(x) any other method approved by the board as a tertiary recovery method.

(26) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the control of one operator or producer.

(27) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who bears any portion of the exploration, development, and operating costs of the well or wells.

History: En. Sec. 3, Ch. 451, L. 1995. amd. Sec. 3, Ch. 571, L. 1995; amd. Sec. 3, Ch. 581, L. 1995; amd. Secs. 1, 4, Ch. 488, L. 1999; amd. Sec. 1, Ch. 530, L. 1999; amd. Secs. 1, 2, Ch. 554, L. 1999; amd. Sec. 1, Ch. 403, L. 2001; amd. Sec. 1, Ch. 421, L. 2001; amd. Sec. 1, Ch. 592, L. 2005; amd. Sec. 1, Ch. 29, L. 2015; amd. Secs. 1 thru 5, Ch. 559, L. 2021; amd. Sec. 1, Ch. 475, L. 2023; amd. Sec. 1, Ch. 569, L. 2023; amd. Sec. 1, Ch. 725, L. 2023.

15-36-304. Production tax rates imposed on oil and natural gas — exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

		Working Interest	Nonworking Interest
(a)	(i) first 12 months of qualifying production	0.5%	14.8%
(ii)	after 12 months:		
(A)	pre-1999 wells	14.8%	14.8%
(B)	post-1999 wells	9%	14.8%
(b)	stripper natural gas pre-1999 wells	11%	14.8%
(c)	horizontally completed well production:		
(i)	first 18 months of qualifying production	0.5%	14.8%
(ii)	after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begin following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rates under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

		Working Interest	Nonworking Interest
(a)	primary recovery production:		
(i)	first 12 months of qualifying production	0.5%	14.8%
(ii)	after 12 months:		
(A)	pre-1999 wells	12.5%	14.8%
(B)	post-1999 wells	9%	14.8%
(b)	(i) pre-1999 stripper wells	9%	14.8%

(ii)	(A) pre-1999 stripper well exemption production	0.5%	14.8%
(B)	pre-1999 stripper well bonus production	5%	14.8%
(c)	(i) post-1999 stripper wells:		
(A)	3 through 10 barrels a day production	5%	14.8%
(B)	more than 10 barrels a day production	9%	14.8%
(ii)	(A) post-1999 stripper well exemption production	0.5%	14.8%
(B)	post-1999 stripper well bonus production	5%	14.8%
(d)	horizontally completed well production:		
(i)	first 18 months of qualifying production	0.5%	14.8%
(ii)	after 18 months:		
(A)	pre-1999 wells	12.5%	14.8%
(B)	post-1999 wells	9%	14.8%
(e)	incremental production:		
(i)	new or expanded secondary recovery production	8.5%	14.8%
(ii)	new or expanded tertiary production	5.8%	14.8%
(f)	horizontally recompleted well:		
(i)	first 18 months	0.5%	14.8%
(ii)	after 18 months:		
(A)	pre-1999 wells	12.5%	14.8%
(B)	post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rates under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) New or expanded secondary recovery production is taxed as provided in subsection (5)(e)(i) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is less than $54. If the price of oil is equal to or greater than $54 a barrel, then new or expanded secondary recovery production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) Pre-1999 stripper well exemption production is taxed as provided in subsection (5)(b)(ii)(A) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is less than $54 a barrel. If the price of oil is equal to or greater than $54 a barrel, there is no pre-1999 stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as pre-1999 stripper well bonus production.

(e) (i) Post-1999 stripper well exemption production is taxed as provided in subsection (5)(c)(ii)(A) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is less than $54 a barrel. If the price of oil is equal to or greater than $54 a barrel, there is no post-1999 stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii)(B) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is equal to or greater than $54 a barrel.

(f) The tax rates under subsection (5)(f) apply only to the incremental production of a horizontally recompleted well.

(7) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the tax for the oil and gas natural resource distribution account. The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) is 0.3%.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section.

History: En. Sec. 4, Ch. 451, L. 1995. amd. Sec. 3, Ch. 571, L. 1995; amd. Sec. 2, Ch. 573, L. 1995; amd. Sec. 4, Ch. 581, L. 1995; amd. Sec. 8, Ch. 466, L. 1997; amd. Sec. 2, Ch. 488, L. 1999; amd. Sec. 2, Ch. 530, L. 1999; amd. Secs. 3, 4, 17(3), Ch. 554, L. 1999; amd. Sec. 2, Ch. 421, L. 2001; amd. Sec. 5, Ch. 522, L. 2003; amd. Sec. 2, Ch. 592, L. 2005; amd. Sec. 3, Ch. 603, L. 2005; amd. Sec. 1, Ch. 286, L. 2007; amd. Sec. 2, Ch. 33, L. 2009; amd. Sec. 8, Ch. 19, L. 2011; amd. Sec. 2, Ch. 29, L. 2015; amd. Sec. 1, Ch. 301, L. 2015; amd. Sec. 1, Ch. 91, L. 2017; amd. Sec. 1, Ch. 8, L. 2019; amd. Sec. 1, Ch. 71, L. 2019; amd. Sec. 1, Ch. 414, L. 2019; amd. Secs. 6 thru 10, Ch. 559, L. 2021; amd. Sec. 2, Ch. 569, L. 2023; amd. Sec. 2, Ch. 725, L. 2023.

15-36-305. Determination of gross value of product. (1) The total gross value of all oil or natural gas produced and sold each quarter must be determined by taking the total number of barrels or cubic feet of oil or natural gas produced and sold each month at the average value at the mouth of the well during the month that the oil or natural gas is produced and sold, as determined by the department. However, in computing the total number of barrels of oil or cubic feet of gas produced and sold, there must be deducted the amount of oil or gas used by the person in connection with the operation of the well from which the oil or gas is produced or for pumping the oil or gas from the well to a tank or pipeline.

(2) For the purposes of determining average value at the mouth of a well, a fee of up to 25 cents a barrel paid to the operator or producer to administer royalty payments, whether or not the fee is payable on a per barrel basis, may not be considered a part of the value of the oil.

History: En. Sec. 5, Ch. 451, L. 1995; amd. Sec. 1, Ch. 549, L. 1999.

15-36-306 through 15-36-308 reserved.

15-36-309. Certain royalties exempt. Exempt from taxation are royalties received by:

(1) an Indian tribe with respect to on-reservation oil and gas production pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938, 25 U.S.C. 396a through 396g;

(2) the United States as trustee for individual Indians; and

(3) the United States, the state of Montana, or a county or municipal government in Montana.

History: En. Sec. 6, Ch. 451, L. 1995.

15-36-310. Operator responsible for payment — deduction of taxes from royalty payments. (1) Each operator required to pay the oil and natural gas production tax under this part shall pay the tax in full for the operator's own account and for the account of each of the other owners of the gross value of product or in kind of all the marketable oil or natural gas produced and sold. Other owners include an owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, production payments, and all other interest or interests owned or carved out of the total gross value of product or in kind of the extracted marketable oil or natural gas.

(2) Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners must be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

History: En. Sec. 7, Ch. 451, L. 1995.

15-36-311. Quarterly payment of tax — statement — failure to pay penalty. (1) The oil and natural gas production tax must be paid in quarterly installments for the quarterly periods ending, respectively, March 31, June 30, September 30, and December 31 of each year, and the amount of the tax for each quarterly period must be paid to the department within 60 days after the end of each quarterly period.

(2) The operator shall complete on forms prescribed by the department a statement showing the total number of barrels of merchantable or marketable oil or cubic feet of natural gas produced and sold by the person in the state during each month of the quarter and during the

whole quarter, the average value of the production sold during each month, and the total value of the production sold for the whole quarter, together with the total amount due as taxes for the quarter. The statement must be filed within the time provided in subsection (1). The statement must be accompanied by the tax due. The statement must be signed by the individual or the president, vice president, treasurer, assistant treasurer, or authorized agent of the association, corporation, joint-stock company, or syndicate making the statement. A person engaged in carrying on business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may include all operations in one statement.

(3) If the tax is not paid on or before the due date, there must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

History: En. Sec. 8, Ch. 451, L. 1995; amd. Sec. 18, Ch. 427, L. 1999; amd. Sec. 3, Ch. 530, L. 1999; amd. Sec. 1, Ch. 5, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-36-312. Record of product — carriers to furnish data — penalty. (1) Each person who purchases oil or natural gas shall keep a record of all oil or natural gas purchased by the person in this state. The records are subject to inspection by the department on reasonable notice at any time during normal business hours.

(2) Each railroad, pipeline, purchasing, and transportation company that carries or purchases oil or natural gas shall furnish to the department, whenever requested to do so, all data related to the shipment of oil or natural gas that may be required to properly enforce the provisions of this part. A railroad, pipeline, purchasing, or transportation company that fails to comply with the provisions of this section is subject to a penalty of $100 for each day that it fails to furnish the statement.

History: En. Sec. 9, Ch. 451, L. 1995.

15-36-313. Procedure to compute tax in absence of statement — estimation of tax — failure to file penalty and interest. (1) If the operator fails to file any statement required by 15-36-311 within the time required, the department shall ascertain the number of barrels of oil or cubic feet of gas produced and sold by the person in this state during the quarter and during each month of the quarter. The department also shall determine the average value of the barrels of oil produced and sold during each month or the average value of cubic feet of gas produced and sold during each month and fix the amount of the taxes due from the person for the quarter.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the taxpayer a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The department may waive any penalty pursuant to 15-1-206.

History: En. Sec. 10, Ch. 451, L. 1995; amd. Sec. 19, Ch. 427, L. 1999; amd. Sec. 2, Ch. 364, L. 2009.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-36-314. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216.

History: En. Sec. 11, Ch. 451, L. 1995; amd. Sec. 1, Ch. 295, L. 1997; amd. Sec. 35, Ch. 51, L. 1999; amd. Sec. 20, Ch. 427, L. 1999; amd. Sec. 6, Ch. 522, L. 2003; amd. Sec. 19, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-36-315. Credit or refund for overpayment — refund from county — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any taxable period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance

refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed pursuant to 15-36-332, must be withheld from the current distribution made pursuant to 15-36-332.

(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to 15-36-332 and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the department.

(3) Except as provided in subsection (4), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

History: En. Sec. 12, Ch. 451, L. 1995; amd. Sec. 2, Ch. 295, L. 1997; amd. Sec. 36, Ch. 51, L. 1999; amd. Sec. 21, Ch. 427, L. 1999; amd. Sec. 7, Ch. 522, L. 2003; amd. Sec. 2, Ch. 46, L. 2013.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-36-316 through 15-36-318 reserved.

15-36-319. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed and recorded after the warrant is issued.

History: En. Sec. 13, Ch. 451, L. 1995.

15-36-320. Repealed. Sec. 16, Ch. 522, L. 2003.

History: En. Sec. 14, Ch. 451, L. 1995.

15-36-321. Statute of limitations. (1) Except as otherwise provided in this section, a deficiency may not be assessed with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period is later, unless before the expiration of the period, the taxpayer files a claim or the department of revenue has determined the existence of the overpayment and has approved the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if a claim is not filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 15, Ch. 451, L. 1995.

15-36-322. Rulemaking authority. The department shall adopt rules that are necessary to implement and administer this part.

History: En. Sec. 16, Ch. 451, L. 1995.

15-36-323. Repealed. Sec. 15, Ch. 554, L. 1999.

History: En. Sec. 17, Ch. 451, L. 1995; amd. Sec. 2, Ch. 453, L. 1995; amd. Sec. 8, Ch. 463, L. 1997; amd. Sec. 100, Ch. 584, L. 1999.

15-36-324. Repealed. Sec. 16, Ch. 522, L. 2003.

History: En. Sec. 18, Ch. 451, L. 1995; amd. Sec. 2, Ch. 453, L. 1995; amd. Sec. 77, Ch. 42, L. 1997; amd. Sec. 10, Ch. 422, L. 1997; amd. Secs. 9, 10, Ch. 466, L. 1997; amd. Sec. 4, Ch. 532, L. 1997; amd. Sec. 39, Ch. 19, L. 1999; amd. Sec. 3, Ch. 488, L. 1999; amd. Sec. 4, Ch. 530, L. 1999; amd. Secs. 5, 6, Ch. 554, L. 1999; amd. Sec. 28, Ch. 29, L. 2001; amd. Sec. 8, Ch. 257, L. 2001; amd. Sec. 2, Ch. 306, L. 2001; amd. Sec. 6, Ch. 531, L. 2001; amd. Sec. 2, Ch. 12, Sp. L. August 2002.

15-36-325. Repealed. Sec. 15, Ch. 554, L. 1999.

History: En. Sec. 19, Ch. 451, L. 1995; amd. Sec. 78, Ch. 42, L. 1997; amd. Sec. 11, Ch. 466, L. 1997; amd. Sec. 5, Ch. 532, L. 1997; amd. Sec. 22, Ch. 427, L. 1999.

15-36-326. Oil and natural gas accelerated tax fund. (1) The county commissioners of a county that receives tax distributions under 15-36-325, as that section read on December 31, 1999, shall establish an oil and natural gas accelerated tax fund for the deposit of the distributions. The county commissioners may retain the money in the fund for any time period considered appropriate by the commissioners. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The oil and natural gas accelerated tax fund must be financially administered as a nonbudgeted fund under the provisions of Title 7, chapter 6, part 23.

History: En. Sec. 20, Ch. 451, L. 1995; amd. Sec. 7, Ch. 554, L. 1999.

15-36-327 through 15-36-330 reserved.

15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the percentage of privilege and license tax established by the board pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the account in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) After the allocation provided for in subsection (2)(a), up to 0.08% of the tax collected pursuant to 15-36-304(7) must be deposited in the oil and gas natural resource distribution account established in 90-6-1001(1) for distribution pursuant to 15-36-332(7).

(c) (i) Except as provided in subsection (2)(c)(ii), any funds remaining after the allocations provided for in subsections (2)(a) and (2)(b) must be deposited in the oil and gas production damage mitigation account as provided in 82-11-161.

(ii) If the unobligated cash balance in the oil and gas production damage mitigation account equals or exceeds $10 million, then there is no deposit to the oil and gas production damage mitigation account, and the funds must remain in the board's expense account provided for in 82-11-135 as reserves for the board or for legislative transfer for purposes related to the impacts of oil and gas production.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%

Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%
Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%
Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(c) 2.95% to the orphan share account established in 75-10-743;

(d) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-109; and

(e) all remaining proceeds to the state general fund.

(5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

History: **En. Sec. 1, Ch. 522, L. 2003; amd. Sec. 18, Ch. 522, L. 2003; amd. Sec. 2, Ch. 5, L. 2005; amd. Sec. 3, Ch. 527, L. 2005; amd. Sec. 4, Ch. 603, L. 2005; amd. Sec. 1, Ch. 432, L. 2007; amd. Sec. 3, Ch. 475, L. 2007; amd. Sec. 3, Ch. 33, L. 2009; amd. Sec. 5, Ch. 57, L. 2009; amd. Sec. 5, Ch. 173, L. 2017; amd. Sec. 10, Ch. 3, L. 2019; amd. Sec. 2, Ch. 414, L. 2019; amd. Sec. 1, Ch. 572, L. 2025.**

Compiler's Comments
2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 572, L. 2025. Amendment effective July 1, 2025.

15-36-332. Distribution of taxes to taxing units — appropriation. (1) (a) Subject to 20-9-310 and subsection (9) of this section, by the dates referred to in subsection (6) of this section, the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) Except as provided by subsection (9), by the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (7) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d) and subject to the provisions of 20-9-310.

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas production taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district as provided in 20-9-310.

(6) Subject to 20-9-310 and subsection (9) of this section, the department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production for distribution to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the allocation must be distributed to the cities and towns based on their relative populations.

(8) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.

(9) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

History: En. Sec. 2, Ch. 522, L. 2003; amd. Sec. 5, Ch. 603, L. 2005; amd. Sec. 4, Ch. 33, L. 2009; amd. Sec. 27, Ch. 128, L. 2011; amd. Sec. 1, Ch. 418, L. 2011; amd. Sec. 6, Ch. 173, L. 2017; amd. Sec. 3, Ch. 414, L. 2019.

CHAPTER 37
MINING LICENSE TAXES

Part 1 — Metalliferous Mines

15-37-101. License tax on metal mines.
15-37-102. Gross value of metal mine yield — definitions.
15-37-103. Rate of tax.
15-37-104. Mine operator's statement of gross value — reports and sampling.
15-37-105. Computation and payment of tax.
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15-37-108. Delinquent taxes — penalty and interest.
15-37-109. False or erroneous statements — investigation penalty and interest.
15-37-110. Review of determination of gross value of product or amount of tax.
15-37-111. License tax supplemental.
15-37-112. Returns of dissolved corporations.
15-37-113. Repealed.
15-37-114. Deficiency assessment — review — penalty and interest.
15-37-115. Credit for overpayment — interest on overpayment.
15-37-116. Statute of limitations.
15-37-117. Disposition of metalliferous mines license taxes.
15-37-118 through 15-37-125 reserved.
15-37-126. Terminated.

Part 2 — Micaceous Mineral Mines

15-37-201. License tax on micaceous mines.
15-37-202. Quarterly payment.
15-37-203. Records.
15-37-204. Quarterly return.
15-37-205. Procedure on failure to file statement.
15-37-206. Collection — warrant for distraint.
15-37-207. Disposition of proceeds of tax.
15-37-208. Repealed.
15-37-209. Renumbered 15-37-221.
15-37-210. Deficiency assessment — review — penalty and interest.
15-37-211. Credit for overpayment — interest on overpayment.
15-37-212. Statute of limitations.
15-37-213 through 15-37-220 reserved.
15-37-221. Penalty for violations.
15-37-222 through 15-37-225 reserved.
15-37-226. Terminated.

Chapter Cross-References

Mines net proceeds tax, Title 15, ch. 23, part 5.
Metal mines gross proceeds tax, Title 15, ch. 23, part 8.
Resource indemnity trust tax, Title 15, ch. 38.
Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

Part 1
Metalliferous Mines

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.
Disposition of money from certain designated license and other taxes, 17-2-124.

15-37-101. License tax on metal mines. (1) Every person who engages in or carries on the business of working or operating any mine or mining property in the state of Montana from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems

or stones of any kind shall be mined, extracted, or produced, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for each year when engaged in or carrying on such business, work, or operations pay to the department of revenue for the exclusive use and benefit of the state of Montana and impacted local government units a license tax for engaging in and carrying on such business, work, or operation in this state.

(2) Nothing contained in this part shall be construed as requiring laborers or employees hired or employed by any person to mine or to work in or about any mine or mining business or property to pay such license taxes, nor shall any discovery work required to be done in prospecting for or locating any mining claims or any annual assessment work or work required in the obtaining of title to mining property from the United States or required by the laws of the United States or of this state in order to hold possessory title to any mining claims be deemed the engaging in or carrying on of the business of working or operating any such mine or mining property.

History: En. Sec. 2, Initiative No. 28, 1925; re-en. Sec. 2344.2, R.C.M. 1935; amd. Sec. 1, Ch. 126, L. 1975; R.C.M. 1947, 84-2002; amd. Sec. 5, Ch. 619, L. 1983.

15-37-102. Gross value of metal mine yield — definitions. As used in this part, the following definitions apply:

(1) "Gross value of product" means the receipts received, as defined in 15-23-801, from all merchantable metals or concentrate containing metals or precious and semiprecious gems and stones extracted or produced each reporting period from any mine or mining property in the state or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from the mine or mining property or from tailings resulting from the smelting, reduction, or treatment of the ores.

(2) "Reporting period" means the 6-month period ending June 30 or December 31, as applicable.

History: En. Sec. 3, Initiative No. 28, 1925; re-en. Sec. 2344.3, R.C.M. 1935; amd. Sec. 101, Ch. 516, L. 1973; amd. Sec. 4, Ch. 156, L. 1977; R.C.M. 1947, 84-2003; amd. Sec. 1, Ch. 227, L. 1983; amd. Sec. 1, Ch. 128, L. 1989; amd. Sec. 2, Ch. 672, L. 1989; amd. Sec. 1, Ch. 19, Sp. L. August 2002; amd. Sec. 20, Ch. 594, L. 2005.

15-37-103. Rate of tax. (1) The license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced is an amount computed on the gross value of product derived by the person from mining business, work, or operation within this state during the preceding reporting period.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
subject to subsection (4), the first $250,000	0%
more than $250,000	1.81% of the increment

(3) Gold, silver, or any platinum-group metal that is dore, bullion, matte, or another form of processed concentrate that is processed in a treatment facility owned or operated by the taxpayer and that is sold or shipped to a refinery for final processing is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
subject to subsection (4), the first $250,000	0%
more than $250,000	1.6% of the increment

(4) The amount of gross value of product that is nontaxable under subsection (2) or (3) may not exceed $250,000 in a calendar year.

History: En. Sec. 4, Initiative No. 28, 1925; re-en. Sec. 2344.4, R.C.M. 1935; amd. Sec. 1, Ch. 220, L. 1957; amd. Sec. 1, Ch. 176, L. 1959; amd. Sec. 1, Ch. 9, Ex. L. 1969; amd. Sec. 1, Ch. 392, L. 1971; amd. Sec. 2, Ch. 126, L. 1975; amd. Sec. 5, Ch. 156, L. 1977; R.C.M. 1947, 84-2004; amd. Sec. 6, Ch. 619, L. 1983; amd. Sec. 3, Ch. 672, L. 1989; amd. Sec. 2, Ch. 19, Sp. L. August 2002; amd. Sec. 2, Ch. 342, L. 2003; amd. Sec. 1, Ch. 4, L. 2009.

15-37-104. Mine operator's statement of gross value — reports and sampling. (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced shall, not later than the date for payment of the tax under 15-37-105, when engaged in or carrying on any mining business, work, or operation, make out a statement of the gross value of product from all mines and mining properties worked or operated by the person during the reporting period. If good cause is shown, the department may grant a reasonable extension of the time for filing statements. The statement must be in the form prescribed by the department and must show the following:

(a) the name, address, and telephone number of the owner, lessee, or operator of the mine or mining property;

(b) the mine's location by county and legal description;

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which the ore or concentrate has been shipped or sold during the period covered by the statement and other information as the department may require;

(e) the gross yield of the ores, concentrates, mineral products, or deposits in constituents of commercial value, such as the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of the ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the annual gross value of product in dollars and cents.

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

History: En. Sec. 5, Initiative No. 28, 1925; re-en. Sec. 2344.5, R.C.M. 1935; amd. Sec. 102, Ch. 516, L. 1973; amd. Sec. 3, Ch. 126, L. 1975; R.C.M. 1947, 84-2005; amd. Sec. 2, Ch. 288, L. 1981; amd. Sec. 2, Ch. 227, L. 1983; amd. Sec. 2, Ch. 128, L. 1989; amd. Sec. 4, Ch. 672, L. 1989; amd. Sec. 3, Ch. 19, Sp. L. August 2002.

15-37-105. Computation and payment of tax. (1) The tax due under this part is computed according to 15-37-103. For the reporting periods defined in 15-37-102(2), the tax is due at the end of the reporting period, and for the reporting period ending June 30, the tax is payable by August 15, and for the reporting period ending December 31, the tax is payable by March 31. The tax is imposed on the products produced in the reporting period.

(2) If good cause is shown, the department may grant a reasonable extension of time for payment of the tax. During the period of any extension granted, the tax due bears interest as provided in 15-1-216.

(3) If a person has sold or otherwise disposed of any of the mine's products at a price substantially below the true market price of the product at the time and place of sale or disposal, then the department shall compute the gross value of the portion of the mine's product that was sold or disposed of substantially below the market price. The gross value must be based upon the quotations of the price of the mine's product in New York City at the time the portion of the product was sold or otherwise disposed of as evidenced by an established authority or market report, such as the Engineering and Mining Journal of New York, or other standard publication, giving the market reports for the reporting period covered by the statement. If there is no quotation covering a particular product, then the department shall fix the value of the gross product or portion of the gross product that was sold or otherwise disposed of at a price substantially below the true market price at the time and place of sale or disposal in a manner as may seem to be equitable.

History: En. Sec. 6, Initiative No. 28, 1925; re-en. Sec. 2344.6, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1959; amd. Sec. 103, Ch. 516, L. 1973; amd. Sec. 4, Ch. 126, L. 1975; R.C.M. 1947, 84-2006; amd. Sec. 3, Ch. 227, L. 1983; amd. Sec. 3, Ch. 128, L. 1989; amd. Sec. 5, Ch. 672, L. 1989; amd. Sec. 23, Ch. 427, L. 1999; amd. Sec. 4, Ch. 19, Sp. L. August 2002; amd. Sec. 21, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-106. Procedure in case of failure to file statements. If a person fails to file the required statement of gross yield for a reporting period on or before the date the tax becomes delinquent under 15-37-108, the department shall, immediately after the time has expired, determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state and from any other information that the department may be able to obtain the total gross value of product of the person from the business during the reporting period for which the license tax is to be paid. The department shall file a statement showing the amount of the gross value of product and shall determine and assess the amount of the license taxes due from the person. The department shall, as soon as possible, give notice to the person in the same manner as though the statement had been filed within time. The department shall collect the license tax, along with penalty and interest as provided in 15-1-216.

History: En. Sec. 8, Initiative No. 28, 1925; re-en. Sec. 2344.8, R.C.M. 1935; amd. Sec. 104, Ch. 516, L. 1973; amd. Sec. 6, Ch. 126, L. 1975; R.C.M. 1947, 84-2008; amd. Sec. 4, Ch. 227, L. 1983; amd. Sec. 4, Ch. 128, L. 1989; amd. Sec. 6, Ch. 672, L. 1989; amd. Sec. 5, Ch. 19, Sp. L. August 2002; amd. Sec. 22, Ch. 594, L. 2005.

15-37-107. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-2008.1 by Sec. 10, Ch. 126, L. 1975; amd. Sec. 6, Ch. 156, L. 1977; R.C.M. 1947, 84-2008.1; amd. Sec. 19, Ch. 439, L. 1981.

15-37-108. Delinquent taxes — penalty and interest. All license taxes assessed under the provisions of this part become delinquent if not paid on or before midnight of the date that the tax is payable as established for the applicable reporting period in 15-37-105(1). The department shall add to the amount of delinquent metalliferous mines tax penalty and interest as provided in 15-1-216. The department may waive a late payment penalty as provided in 15-1-206.

History: En. Sec. 7, Initiative No. 28, 1925; re-en. Sec. 2344.7, R.C.M. 1935; amd. Sec. 2, Ch. 165, L. 1959; amd. Sec. 5, Ch. 126, L. 1975; R.C.M. 1947, 84-2007; amd. Sec. 5, Ch. 227, L. 1983; amd. Sec. 5, Ch. 128, L. 1989; amd. Sec. 7, Ch. 672, L. 1989; amd. Sec. 24, Ch. 427, L. 1999; amd. Sec. 6, Ch. 19, Sp. L. August 2002; amd. Sec. 23, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Deficiency assessment procedure, 15-37-114.

15-37-109. False or erroneous statements — investigation penalty and interest. (1) When the department determines that any statement and return is false or erroneous, it may require a person or the officers or the employees of the person, to testify concerning the statement and return and may examine all books, records, papers, and documents of the person, pertaining to the business, upon giving 5 days' written notice to the person or officers or employees having custody of the books, records, papers, and documents. A person who fails to appear or who refuses to be sworn, to testify, or to answer any material question propounded by the department or who refuses to permit the department to examine the books, records, papers, or documents pertaining to the business is considered guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $1,000 or by imprisonment in the county jail for not more than 6 months or by both fine and imprisonment. If the department, after hearing the evidence and after the examination of the books, papers, documents, and records of the person, finds that the statement and return are erroneous or false in any material matter, the department shall correct the return to show the true gross value of product and shall reassess the amount of the license tax due from the person and may add to the tax a penalty of not more than 50% and shall immediately mail to the person a written notice of the corrections made to the statement and return and the amount of the license tax and penalty due and payable.

(2) The department shall collect the license tax with penalty added, and if the tax has become delinquent, it shall also collect interest as provided in 15-1-216. In order to verify the statement and return, the department may require any person engaged in the business of smelting, milling, reduction, or treatment of ores extracted or produced from any mine or mining property in the state to appear before the department and testify concerning the gross mineral content of any ore or at the request of the department to furnish sworn statements showing the gross yield of the ores, mineral products, or deposits in constituents of commercial

value including the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of the ores or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement, without any deductions for smelting, milling, reduction, or treatment of the ores or mineral product.

(3) The books, records, papers, and documents of the person engaged in the business of smelting, milling, reduction, or treatment in any manner of ores extracted or produced by any mine or mining property in the state must be open to inspection and examination by the department at any time or place that the department may designate.

(4) If a person required by this part to file a return or to verify, under oath, any statement on the return makes a false statement in any material respect or verifies, under oath, any false statement or fails to file any statement required by the department or refuses to appear before the department to testify concerning the gross mineral content of any ore or refuses to allow the department at any time or place to inspect or examine the books, records, papers, and documents of the person engaged in the business of smelting, milling, reduction, or treatment of ores extracted or produced by any mine or mining property in the state, the person is considered guilty of a misdemeanor and shall be punished by a fine of not more than $1,000 or by imprisonment in the county jail for not more than 6 months or by both a fine and imprisonment.

History: **En. Sec. 9, Initiative No. 28, 1925; re-en. Sec. 2344.9, R.C.M. 1935; amd. Sec. 72, Ch. 405, L. 1973; amd. Sec. 7, Ch. 126, L. 1975; R.C.M. 1947, 84-2009; amd. Sec. 25, Ch. 427, L. 1999.**

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Deficiency assessment procedure, 15-37-114.

15-37-110. Review of determination of gross value of product or amount of tax. Every person whose license tax has been determined and assessed by the department of revenue under any of the provisions of this part who feels aggrieved by the determination and assessment of the department as to the amount of gross value of product or as to the amount of the license tax may seek review pursuant to 15-1-211.

History: **En. Sec. 10, Initiative No. 28, 1925; re-en. Sec. 2344.10, R.C.M. 1935; amd. Sec. 73, Ch. 405, L. 1973; amd. Sec. 8, Ch. 126, L. 1975; amd. Sec. 7, Ch. 156, L. 1977; R.C.M. 1947, 84-2010; amd. Sec. 16, Ch. 811, L. 1991.**

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

15-37-111. License tax supplemental. The license taxes herein provided for shall be in addition to all other taxes, licenses, and other fees now required to be paid by persons subject to the provisions of this part.

History: **En. Sec. 14, Initiative No. 28, 1925; re-en. Sec. 2344.14, R.C.M. 1935; R.C.M. 1947, 84-2014.**

15-37-112. Returns of dissolved corporations. Every corporation which shall be dissolved or cease to do business in this state during any taxpaying year shall, on or before the date of such dissolution or cessation of business, make all statements, reports, and returns required by law to be made with reference to the carrying on of the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced and pay the tax due for such period as it carried on such business. The department of revenue may grant a reasonable extension of time for filing returns upon good cause shown therefor.

History: **En. Sec. 1, Ch. 11, L. 1941; amd. Sec. 108, Ch. 516, L. 1973; R.C.M. 1947, 84-2016.**

15-37-113. Repealed. Sec. 4, Ch. 334, L. 1981.

History: **En. Sec. 13, Initiative No. 28, 1925; re-en. Sec. 2344.13, R.C.M. 1935; amd. Sec. 107, Ch. 516, L. 1973; amd. Sec. 11, Ch. 126, L. 1975; R.C.M. 1947, 84-2013.**

15-37-114. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: **En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 17, Ch. 811, L. 1991; amd. Sec. 26, Ch. 427, L. 1999; amd. Sec. 24, Ch. 594, L. 2005.**

Cross-References
Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-115. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on the amount of unpaid tax, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 27, Ch. 427, L. 1999.

Cross-References
Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-116. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-37-117. *(Temporary)* **Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be allocated as follows:

(a) to the credit of the general fund of the state, 47% of total collections each year;

(b) to the state special revenue fund to the credit of the hard-rock mining impact trust account established in 90-6-304(2), 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund established in 82-4-312, 8.5% of total collections each year;

(d) to the natural resources operations state special revenue account established in 15-38-301, 7% of total collections each year; and

(e) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased

employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, 35% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33⅓% is allocated to the county for general planning functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33⅓% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33⅓% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory appropriation pursuant to 17-7-502.

(4) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction. *(Terminates June 30, 2038—sec. 3, Ch. 196, L. 2025.)*

15-37-117. *(Effective July 1, 2038)* **Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be allocated as follows:

(a) to the credit of the general fund of the state, 57% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund established in 82-4-312, 8.5% of total collections each year;

(d) to the natural resources operations state special revenue account established in 15-38-301, 7% of total collections each year; and

(e) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33⅓% is allocated to the county for general planning functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33⅓% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33⅓% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory appropriation pursuant to 17-7-502.

(4) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

History: **En. Sec. 1, Ch. 619, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 8, Ch. 672, L. 1989; amd. Sec. 2, Ch. 760, L. 1991; amd. Sec. 7, Ch. 15, Sp. L. July 1992; amd. Sec. 8, Ch. 455, L. 1993; amd. Sec. 14, Ch. 18, L. 1995; amd. Sec. 1, Ch. 31, L. 1995; amd. Secs. 1, 8, Ch. 577, L. 1995; amd. Sec. 21, Ch. 584, L. 1995; amd. Sec. 1, Ch. 415, L. 1997; amd. Sec. 3, Ch. 144, L. 1999; amd. Sec. 1, Ch. 464, L. 1999; amd. Sec. 5, Ch. 460, L. 2001; amd. Sec. 3, Ch. 12, Sp. L. August 2002; amd. Sec. 7, Ch. 19, Sp. L. August 2002; amd. Sec. 3, Ch. 598, L. 2005; amd. Sec. 2, Ch. 432, L. 2007; amd. Sec. 4, Ch. 475, L. 2007; amd. Sec. 1, Ch. 387, L. 2015; amd. Sec. 7, Ch. 173, L. 2017.**

Compiler's Comments

Extension of Termination Date: Section 3, Ch. 196, L. 2025, amended sec. 5, Ch. 387, L. 2015, by extending the termination date imposed by Ch. 387 to June 30, 2038. Effective July 1, 2025.

Section 2, Ch. 181, L. 2025, which amended sec. 5, Ch. 387, L. 2015, by extending the termination date imposed by Ch. 387 to June 30, 2035, was rendered void pursuant to 1-2-209(2) because sec. 3, Ch. 196, L. 2025, extended the same termination date to a later date.

Cross-References

Environmental quality protection fund, 75-10-704.

Orphan share state special revenue account — reimbursement of claims — payment of department costs, 75-10-743.

15-37-118 through 15-37-125 reserved.

15-37-126. Terminated. Sec. 39(3), Ch. 15, Sp. L. July 1992.

History: **En. Sec. 6, Ch. 15, Sp. L. July 1992.**

Part 2
Micaceous Mineral Mines

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-37-201. License tax on micaceous mines. Every person engaged in or carrying on the business of working or operating any mine or mining property in the state from which vermiculite, perlite, kerrite, maconite, or any other micaceous minerals are mined, extracted, or produced must pay to the department of revenue for the exclusive use and benefit of the state a license tax for engaging in and carrying on such business in an amount equal to 5 cents per ton for each and every ton of concentrates mined, extracted, or produced by such person during such year.

History: **En. Sec. 2, Ch. 50, L. 1951; amd. Sec. 224, Ch. 516, L. 1973; amd. Sec. 1, Ch. 209, L. 1977; R.C.M. 1947, 84-5902.**

15-37-202. Quarterly payment. Such annual license tax as imposed by 15-37-201 shall be paid in quarterly installments for the quarters ending, respectively, March 31, June 30, September 30, and December 31 of each year, and the amount of such license tax due for each such quarter shall be paid to the department of revenue within 30 days after the end of each quarter.

History: **En. Sec. 3, Ch. 50, L. 1951; amd. Sec. 225, Ch. 516, L. 1973; R.C.M. 1947, 84-5903.**

15-37-203. Records. Each person subject to 15-37-201 shall keep a record in the form required by the department of all products mined or produced by the person in this state. The records must at all times during business hours be subject to inspection by the department.

History: **En. Sec. 5, Ch. 50, L. 1951; amd. Sec. 227, Ch. 516, L. 1973; R.C.M. 1947, 84-5905; amd. Sec. 123, Ch. 27, Sp. L. November 1993.**

15-37-204. Quarterly return. (1) Each and every person must, within 30 days after the end of each quarter, make out on forms prescribed by the department of revenue and deliver to the department a statement showing the total number of tons of concentrates of vermiculite, perlite, kerrite, maconite, or any other micaceous minerals mined or produced by such person during each month of such quarter and during the whole quarter and such other information as the department may require, together with the total amount due to the state as license taxes for such quarter, and must, within such 30 days and at the same time such statement is delivered to the department, pay to the department the amount of the license taxes shown by such statement to be due to the state for the quarter for which such statement is made.

(2) Any person engaged in carrying on such business at more than one place or operating more than one mine in this state may include all thereof in one statement.

(3) The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown therefor.

History: En. Sec. 6, Ch. 50, L. 1951; amd. Sec. 228, Ch. 516, L. 1973; amd. Sec. 2, Ch. 209, L. 1977; R.C.M. 1947, 84-5906.

15-37-205. Procedure on failure to file statement. (1) If a person fails to file any statement required by 15-37-204 within the time required or fails to pay the tax required by this part on or before the date the payment is due, the department shall immediately after the time has expired proceed to determine the amount produced by the person within this state during the quarter and during each month of the quarter and shall determine and fix the amount of the license taxes due to the state from the person for the quarter.

(2) The department shall add to the amount of all delinquent micaceous mineral mines license taxes penalty and interest as provided in 15-1-216. The department may waive a penalty pursuant to 15-1-206.

History: En. Sec. 7, Ch. 50, L. 1951; amd. Sec. 229, Ch. 516, L. 1973; amd. Sec. 3, Ch. 209, L. 1977; R.C.M. 1947, 84-5907(1), (2); amd. Sec. 28, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-206. Collection — warrant for distraint. (1) The department shall mail to the person required to file a quarterly statement and pay any license tax a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter shall advise that if payment is not made, a warrant for distraint may be filed.

(2) If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. Sec. 7, Ch. 50, L. 1951; amd. Sec. 229, Ch. 516, L. 1973; amd. Sec. 3, Ch. 209, L. 1977; R.C.M. 1947, 84-5907(3); amd. Sec. 20, Ch. 439, L. 1981.

15-37-207. Disposition of proceeds of tax. All license taxes collected under the provisions of this part shall be deposited to the credit of the general fund of the state.

History: En. Sec. 8, Ch. 50, L. 1951; R.C.M. 1947, 84-5908.

15-37-208. Repealed. Sec. 4, Ch. 334, L. 1981.

History: En. Sec. 4, Ch. 50, L. 1951; amd. Sec. 226, Ch. 516, L. 1973; R.C.M. 1947, 84-5904.

15-37-209. Renumbered 15-37-221. Code Commissioner, 1983.

15-37-210. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 18, Ch. 811, L. 1991; amd. Sec. 29, Ch. 427, L. 1999; amd. Sec. 25, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-211. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as provided in 15-1-216 due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 30, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-37-212. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-37-213 through 15-37-220 reserved.

15-37-221. Penalty for violations. Any violation of any of the provisions of this part shall be deemed a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding 6 months or by both such fine and imprisonment.

History: En. Sec. 9, Ch. 50, L. 1951; R.C.M. 1947, 84-5909; MCA 1981, 15-37-209; redes. 15-37-221 by Code Commissioner, 1983.

15-37-222 through 15-37-225 reserved.

15-37-226. Terminated. Sec. 39(2), Ch. 15, Sp. L. July 1992.

History: En. Sec. 8, Ch. 15, Sp. L. July 1992.

CHAPTER 38
RESOURCE INDEMNITY TRUST AND GROUND WATER ASSESSMENT

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Chapter Cross-References

Resource indemnity trust, Art. IX, sec. 2, Mont. Const.
Environmental contingency grant program, Title 75, ch. 1, part 11.
Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

Part 1
General Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-38-101. Short title. This chapter shall be known and may be cited as "The Montana Resource Indemnity Trust and Ground Water Assessment Act".

History: En. 84-7001 by Sec. 1, Ch. 497, L. 1973; R.C.M. 1947, 84-7001; amd. Sec. 14, Ch. 769, L. 1991.

15-38-102. Legislative policy. It is the policy of the state of Montana to indemnify its citizens for the loss of long-term value resulting from the depletion of its mineral resource base and for environmental damage caused by mineral development. This policy of indemnification is achieved by establishing a permanent resource indemnity trust, as required by Article IX, section 2, of the Montana constitution, by supporting ground water assessment programs from the proceeds of a tax levied on mineral extraction, and by allocating spendable revenues:

(1) to protect and restore the environment from damages resulting from mineral development;

(2) to support a variety of development programs that benefit the economy of the state and the lives of Montana citizens; and

(3) to assess the state's ground water resources.

History: En. 84-7002 by Sec. 2, Ch. 497, L. 1973; R.C.M. 1947, 84-7002; amd. Sec. 11, Ch. 418, L. 1987; amd. Sec. 15, Ch. 769, L. 1991.

15-38-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means department of revenue.

(2) "Gross value of product" means, except as provided in 15-38-125 through 15-38-129, the market value of any merchantable mineral extracted or produced during the taxable year.

(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, talc, vermiculite, limestone, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens.

History: En. 84-7003 by Sec. 3, Ch. 497, L. 1973; amd. Sec. 23, Ch. 52, L. 1977; R.C.M. 1947, 84-7003; amd. Sec. 11, Ch. 531, L. 1989; amd. Sec. 1, Ch. 520, L. 1991; amd. Sec. 12, Ch. 695, L. 1991; amd. Sec. 11, Ch. 506, L. 1993; amd. Sec. 1, Ch. 10, L. 1995; amd. Sec. 11, Ch. 397, L. 1995.

15-38-104. Tax on mineral production. (1) Except as provided in 15-38-113 and subsections (2) through (5) of this section, the annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing a mineral is $25, plus an additional amount computed on the gross value of product that was derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of $5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is $25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4% of the gross value of product in excess of $625; and

(b) coal is $25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4% of the gross value of product in excess of $6,250.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is $25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2% of the gross value of product in excess of $1,250.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is $25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10% of the gross value of product in excess of $250.

(5) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing industrial garnets and associated byproducts is $25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of $2,500.

History: En. 84-7006 by Sec. 6, Ch. 497, L. 1973; amd. Sec. 1, Ch. 495, L. 1977; R.C.M. 1947, 84-7006; amd. Sec. 12, Ch. 531, L. 1989; amd. Sec. 2, Ch. 520, L. 1991; amd. Sec. 13, Ch. 695, L. 1991; amd. Sec. 12, Ch. 506, L. 1993; amd. Sec. 2, Ch. 10, L. 1995; amd. Sec. 12, Ch. 397, L. 1995; amd. Sec. 79, Ch. 42, L. 1997; amd. Sec. 2, Ch. 477, L. 2009.

15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall file an annual statement of gross yield of the mineral from each mine owned or worked by that person during the calendar year. This statement must be in the form prescribed by the department and must be signed by the person or the manager, superintendent, agent, president, or vice-president of the corporation, association,

or partnership, if any. Metal producers shall deliver the statement to the department on or before March 31 following the end of the calendar year. Mineral producers shall deliver the statement to the department on or before the 60th day following the end of the calendar year. The statement must show the following:

(1) the name and address of the owner or lessee or operator of the mine;

(2) the description and location of the mine;

(3) the quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement;

(4) the amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;

(5) the gross yield or value in dollars and cents.

History: En. 84-7005 by Sec. 5, Ch. 497, L. 1973; R.C.M. 1947, 84-7005; amd. Sec. 3, Ch. 334, L. 1981; amd. Sec. 1, Ch. 226, L. 1983; amd. Sec. 6, Ch. 128, L. 1989; amd. Sec. 34, Ch. 451, L. 1995.

15-38-106. Payment of tax — records — collection of taxes — refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before the due date of the annual statement established in 15-38-105, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 17-2-124, deposit the proceeds from the resource indemnity and ground water assessment tax in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) $366,000 of the proceeds from the tax in the ground water assessment account established by 85-2-905;

(c) for the biennium beginning July 1, 2007, $150,000 of the proceeds from the tax in the water storage state special revenue account established in 85-1-631;

(d) 50% of the remaining proceeds from the tax divided equally between the environmental quality protection fund established in 75-10-704 and the hazardous waste/CERCLA special revenue account established in 75-10-621; and

(e) all remaining proceeds from the tax in the natural resources projects state special revenue account, established in 15-38-302, for the purpose of making grants to be used for mineral development reclamation projects and renewable resource projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

History: En. 84-7007, 84-7008 by Secs. 7, 8, Ch. 497, L. 1973; R.C.M. 1947, 84-7007, 84-7008; amd. Sec. 1, Ch. 585, L. 1979; amd. Sec. 2, Ch. 226, L. 1983; amd. Sec. 4, Ch. 281, L. 1983; amd. Sec. 7, Ch. 128, L. 1989; amd. Sec. 16, Ch. 769, L. 1991; amd. Sec. 9, Ch. 455, L. 1993; amd. Secs. 1, 2, Ch. 478, L. 1993; amd. Sec. 80, Ch. 42, L. 1997; amd. Sec. 2, Ch. 415, L. 1997; amd. Sec. 11, Ch. 422, L. 1997; amd. Sec. 4, Ch. 144, L. 1999; amd. Sec. 5, Ch. 552, L. 1999; amd. Sec. 4, Ch. 34, L. 2001; amd. Sec. 7, Ch. 586, L. 2001; amd. Sec. 1, Ch. 496, L. 2003; amd. Sec. 26, Ch. 594, L. 2005; amd. Sec. 3, Ch. 432, L. 2007; amd. Sec. 5, Ch. 475, L. 2007; amd. Sec. 3, Ch. 477, L. 2009; amd. Sec. 1, Ch. 334, L. 2019.

Cross-References
Deficiency assessment procedure, 15-38-110.
Creation of trust fund, 15-38-201.

15-38-107. Procedure in case of failure to file statement. (1) If any person fails to make and file a statement within the time prescribed, the department shall immediately after the time has expired determine the gross yield of the mineral of the person from the business during the calendar year immediately preceding the year in which the statement is to be filed and shall fix the amount of the tax due to the state from the person for the calendar year and shall add to the amount of the tax penalty and interest as provided in 15-1-216.

(2) If a person fails to pay the tax when due, the department shall immediately determine the total gross value of product of the person from the business during the year for which the tax is due and shall fix the amount of tax due to the state and shall add to the amount penalty and interest as provided in 15-1-216.

(3) The department shall mail to the person failing to file an annual statement or pay any tax a letter setting forth the amount of tax, penalty, and interest due. The letter must advise that if payment is not received, a warrant for distraint may be filed.

(4) Penalties imposed by 15-1-216 may be waived by the department pursuant to 15-1-206.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, Ch. 156, L. 1977; R.C.M. 1947, 84-7012(1) thru (3); amd. Sec. 21, Ch. 439, L. 1981; amd. Sec. 3, Ch. 226, L. 1983; amd. Sec. 8, Ch. 128, L. 1989; amd. Sec. 31, Ch. 427, L. 1999.

Cross-References
Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.
Warrant for distraint, Title 15, ch. 1, part 7.

15-38-108. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, Ch. 156, L. 1977; R.C.M. 1947, 84-7012(4); amd. Sec. 22, Ch. 439, L. 1981.

15-38-109. Restricted access to records. The information furnished by the producer to the department for the purpose of this chapter must be treated as provided in 15-31-511.

History: En. Sec. 13, Ch. 497, L. 1973; R.C.M. 1947, 84-7013; amd. Sec. 3, Ch. 135, L. 1993.

15-38-110. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 19, Ch. 811, L. 1991; amd. Sec. 27, Ch. 594, L. 2005.

15-38-111. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on deficiency assessments provided in 15-1-216 due from the due date of the return or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period that the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 28, Ch. 594, L. 2005.

15-38-112. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-38-113. Exemption from resource indemnity and ground water assessment tax. The following persons are exempt from the resource indemnity and ground water assessment tax:

(1) a person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1;

(2) a person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, part 3;

(3) a person who holds a permit pursuant to Title 82, chapter 4, part 4, and is subject to the fees provided for in 82-4-437(2) and (3); or

(4) a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4.

History: En. Sec. 11, Ch. 672, L. 1989; amd. Sec. 17, Ch. 769, L. 1991; amd. Sec. 8, Ch. 522, L. 2003; amd. Sec. 4, Ch. 477, L. 2009; amd. Sec. 2, Ch. 334, L. 2019.

15-38-114 through 15-38-120 reserved.

15-38-121. Certain royalties exempt. Exempt from taxation are royalties received by:

(1) an Indian tribe with respect to mineral production pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938, 25 U.S.C. 396a through 396g;

(2) the United States as trustee for individual Indians; and

(3) the United States, the state of Montana, or a county or municipal government.

History: En. Sec. 1, Ch. 536, L. 1989; amd. Sec. 1, Ch. 92, L. 1991; amd. Sec. 35, Ch. 451, L. 1995.

15-38-122 through 15-38-124 reserved.

15-38-125. Gross value of product for coal. As used in this part when referring to coal, "gross value of product" is determined by multiplying the contract sales price, as defined in 15-35-102, by the tonnage produced.

History: En. Sec. 3, Ch. 520, L. 1991.

15-38-126. Gross value of product for talc. As used in this part, when referring to talc, "gross value of product" is the gross yield or value of talc as determined in 15-23-515(2).

History: En. Sec. 2, Ch. 531, L. 1989.

15-38-127. Gross value of product for vermiculite. As used in this part, when referring to vermiculite, "gross value of product" is the gross yield or value of vermiculite as determined in 15-23-516(2).

History: En. Sec. 2, Ch. 695, L. 1991.

15-38-128. Gross value of product for limestone. As used in this part, when referring to limestone, "gross value of product" is the gross yield or value as determined in 15-23-517(2).

History: En. Sec. 2, Ch. 506, L. 1993.

15-38-129. Gross value of product for industrial garnets and byproducts. As used in this part, when referring to industrial garnets and associated byproducts, "gross value of product" is the gross yield or value as determined in 15-23-518(2).

History: En. Sec. 2, Ch. 397, L. 1995.

15-38-130 through 15-38-135 reserved.

15-38-136. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 9, Ch. 15, Sp. L. July 1992; amd. Sec. 10, Ch. 455, L. 1993.

Part 2
Resource Indemnity Trust Fund

15-38-201. Creation of resource indemnity trust fund. For the purpose of carrying out this chapter, there is a resource indemnity trust fund in the amount of $100 million. The resource indemnity trust fund must be credited with all money received as provided in this chapter.

History: En. 84-7004 by Sec. 4, Ch. 497, L. 1973; R.C.M. 1947, 84-7004; amd. Sec. 5, Ch. 281, L. 1983; amd. Sec. 81, Ch. 42, L. 1997; amd. Sec. 1, Ch. 444, L. 1997.

15-38-202. Investment of resource indemnity trust fund — expenditure — minimum balance. (1) All money paid into the resource indemnity trust fund must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches $100 million. After the fund balance reaches $100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than $100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) $3.2 million to be deposited in the natural resources projects state special revenue account, established in 15-38-302, for the purpose of making grants;

(ii) $300,000 to be deposited in the ground water assessment account established in 85-2-905;

(iii) $500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified projects.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) $650,000 to be deposited in the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(ii) $500,000 to be deposited in the water storage state special revenue account created by 85-1-631; and

(iii) $175,000 to be deposited in the environmental contingency account established in 75-1-1101.

(c) The remainder of the interest income is allocated as follows:

(i) Sixty-five percent of the interest income of the resource indemnity trust fund must be allocated to the natural resources operations state special revenue account established in 15-38-301.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the

proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session.

History: **En. 84-7009 by Sec. 9, Ch. 497, L. 1973; R.C.M. 1947, 84-7009; amd. Sec. 44, Ch. 505, L. 1981; amd. Sec. 6, Ch. 241, L. 1983; amd. Sec. 6, Ch. 281, L. 1983; amd. Sec. 1, Ch. 716, L. 1985; amd. Sec. 1, Ch. 408, L. 1987; amd. Secs. 12, 18, Ch. 418, L. 1987; amd. Secs. 1, 5, Ch. 555, L. 1987; amd. Sec. 1, Ch. 530, L. 1989; amd. Sec. 12, Ch. 672, L. 1989; amd. Secs. 3, 4, Ch. 478, L. 1993; amd. Sec. 12, Ch. 613, L. 1993; amd. Sec. 36, Ch. 451, L. 1995; amd. Sec. 2, Ch. 577, L. 1995; amd. Sec. 82, Ch. 42, L. 1997; amd. Sec. 3, Ch. 415, L. 1997; amd. Sec. 2, Ch. 444, L. 1997; amd. Sec. 5, Ch. 144, L. 1999; amd. Secs. 1, 2, Ch. 497, L. 1999; amd. Sec. 3, Ch. 529, L. 1999; amd. Sec. 5, Ch. 34, L. 2001; amd. Sec. 2, Ch. 61, L. 2001; amd. Sec. 6, Ch. 20, Sp. L. August 2002; amd. Sec. 9, Ch. 522, L. 2003; amd. Sec. 4, Ch. 432, L. 2007; amd. Sec. 1, Ch. 288, L. 2009; amd. Sec. 1, Ch. 413, L. 2015.**

Cross-References

Resource indemnity trust, Art. IX, sec. 2, Mont. Const.
Board of Investments, 2-15-1808.
Payment into grant program special revenue account, 75-1-1102.
Use of funds to reclaim abandoned wells or holes, 82-10-402.

15-38-203. Use of funds. (1) Any funds made available under this chapter must be used and expended to improve the total environment and rectify damage to the environment.

(2) Funding under this chapter must be prioritized so as to maximize the funds available for on-the-ground projects and programs in Montana communities that address the impacts of natural resource development and improve the total environment, while minimizing the use of the funds available under this chapter for the operations of state government.

History: **En. 84-7010 by Sec. 10, Ch. 497, L. 1973; R.C.M. 1947, 84-7010; (2)En. Sec. 7, HB 922, L. 1985; amd. Sec. 3, Ch. 444, L. 1997; amd. Sec. 5, Ch. 432, L. 2007.**

Part 3
Natural Resources Accounts

15-38-301. *(Temporary)* **Natural resources operations state special revenue account created — revenue allocated — appropriations from account.** (1) There is a natural resources operations state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent required to be credited to the renewable resource loan debt service fund pursuant to 85-1-603, there must be paid into the natural resources operations state special revenue account:

(a) the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(b) the metal mines license tax proceeds as provided in 15-37-117(1)(d);

(c) the oil and natural gas production tax as provided in 15-36-331;

(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests; and

(e) fund transfers by the legislature.

(3) By August 15 of each fiscal year, the state treasurer shall transfer the amount necessary, when combined with available and unencumbered fund balance and anticipated revenue for the fiscal year, to fund the amount appropriated by the legislature in the general appropriations act from the state general fund to the natural resources operations state special revenue account for the sole purpose of funding the appropriations authorized by the legislature from the account. Prior to the closing of the fiscal year, the department shall reconcile anticipated revenue with actual revenue received. If revenue is received above the anticipated amount, the transfer in the following fiscal year shall adjust for the unanticipated amount. If revenue is received below the anticipated amount, the state treasurer shall transfer the amount of the revenue shortfall from the general fund to the natural resources operations state special revenue account.

(4) Appropriations may be made from the natural resources operations state special revenue account for administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of natural resources operations. *(Terminates June 30, 2029—sec. 1, Ch. 549, L. 2025, sec. 2, Ch. 549, L. 2025.)*

15-38-301. *(Effective July 1, 2029)* **Natural resources operations state special revenue account created — revenue allocated — appropriations from account.** (1) There is a natural resources operations state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent required to be credited to the renewable resource loan debt service fund pursuant to 85-1-603, there must be paid into the natural resources operations state special revenue account:

(a) the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(b) the metal mines license tax proceeds as provided in 15-37-117(1)(d);

(c) the oil and natural gas production tax as provided in 15-36-331;

(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests; and

(e) fund transfers by the legislature.

(3) Appropriations may be made from the natural resources operations state special revenue account for administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of natural resources operations.

History: En. Sec. 27, Ch. 432, L. 2007; amd. Sec. 8, Ch. 486, L. 2009; amd. Sec. 1, Ch. 137, L. 2021; amd. Sec. 1, Ch. 119, L. 2023.

Compiler's Comments

Extension of Termination Date: Section 1, Ch. 549, L. 2025, and sec. 2, Ch. 549, L. 2025, amended sec. 3, Ch. 137, L. 2021, and sec. 1, Ch. 573, L. 2023, by extending the termination dates imposed by those sections to June 30, 2029. Effective July 1, 2025.

15-38-302. Natural resources projects state special revenue account created — revenue allocated — limitations on appropriations from account. (1) There is a natural resources projects state special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the natural resources projects state special revenue:

(a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;

(b) the resource indemnity and ground water assessment tax under the provisions of 15-38-106;

(c) the oil and natural gas production tax as provided in 15-36-331;

(d) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource loan debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619; and

(e) 10% of the interest earned from the Montana water development state special revenue account established in 85-1-320 to be used for water storage pilot projects and dam inspections required under 85-15-213.

(3) Appropriations may be made from the natural resources projects state special revenue account for grants and loans for designated projects and the activities authorized in 85-1-602 and 90-2-1102.

(4) The account retains its own interest.

History: En. Sec. 28, Ch. 432, L. 2007; amd. Sec. 13, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 13, Ch. 775, L. 2025. Amendment effective June 19, 2025.

CHAPTER 39
TAXATION OF BENTONITE

Part 1 — General Provisions

15-39-101. Production tax rates imposed on bentonite production.
15-39-102. Semiannual payment of tax — statement — authority of department.
15-39-103. Taxation of royalties.
15-39-104. Examination of statement — adjustments — delivery of notices and demands.
15-39-105. Penalties and interest for violation.

15-39-106. Authority to collect delinquent taxes.
15-39-107. Interest on deficiency — penalty.
15-39-108. Limitations.
15-39-109. Credit or refund for overpayment — refund from county — interest on overpayment.
15-39-110. Distribution of taxes.
15-39-111. Administration — rules.

Part 1
General Provisions

15-39-101. Production tax rates imposed on bentonite production. (1) The production of bentonite is taxed as provided in this section. The tax is distributed as provided in 15-39-110.

(2) (a) Except as provided in subsection (3), the tax on bentonite is on the gross yield of bentonite produced, measured in tons before crushing and drying, by the owner or operator within the exterior boundaries of an elementary school district. The tax is computed according to the following annual production schedule:

(i) on the first 80,000 tons produced in excess of the amount exempted in subsection (3), $1.56 a ton;

(ii) on the next 150,000 tons produced, $1.50 a ton;

(iii) on the next 250,000 tons produced, $1.40 a ton;

(iv) on the next 500,000 tons produced, $1.25 a ton;

(v) on production in excess of 1 million tons, $1 a ton.

(b) For tax years beginning after December 31, 2009, the dollar amounts referred to in the schedule in subsections (2)(a)(i) through (2)(a)(v) must be adjusted by the department by multiplying each dollar amount by the quotient of the PCE for the first quarter of the year previous to the tax year for which the tax is being calculated, divided by the PCE for the first quarter of the 2009 tax year.

(c) For the purposes of this section:

(i) "PCE" has the meaning provided in 15-23-515; and

(ii) "ton" means 2,000 pounds.

(3) The first 20,000 tons produced in a calendar year are exempt from taxation.

History: **En. Sec. 1, Ch. 559, L. 2005.**

15-39-102. Semiannual payment of tax — statement — authority of department. (1) (a) The bentonite production tax imposed under 15-39-101 and the tax on royalties under 15-39-103 must be paid in semiannual installments for the semiannual periods ending, respectively, June 30 and December 31 of each year, and the amount of the tax for each semiannual period must be paid to the department within 45 days after the end of each semiannual period. The owner or operator of the bentonite mine shall pay the production tax and the tax on royalty interests.

(b) Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner must be deducted from any settlements under the lease or leases or division of proceeds orders or contracts.

(2) The owner or operator shall complete on forms prescribed by the department a statement showing:

(a) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;

(b) the description and location of the mine or mines;

(c) the number of tons of bentonite extracted, produced, and treated or sold from the mine during the period covered by the statement;

(d) the amount and character of the bentonite and the yield of the bentonite from the mine before crushing and drying, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield of value in dollars and cents.

(3) The statement must be signed by the individual or the president, vice president, treasurer, assistant treasurer, or authorized agent of the association, corporation, joint-stock company, or syndicate making the statement.

(4) The statement must be accompanied by the tax due.

(5) The tax collected under this section must be deposited in the state special revenue fund for distribution as provided in 15-39-110.

(6) For the purpose of determining compliance with the provisions of this part, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(a) require the attendance of a person having knowledge or information relevant to a statement;

(b) compel the production of books, papers, records, or memoranda by the person required to attend;

(c) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(d) take testimony on matters material to the determination; and

(e) administer oaths or affirmations.

History: En. Sec. 2, Ch. 559, L. 2005.

15-39-103. Taxation of royalties. All royalty amounts paid or apportioned in kind to royalty owners for which the statement is made under 15-39-102 are taxed at 15% of the amount paid or apportioned in kind to the royalty owner and are paid as provided in 15-39-102.

History: En. Sec. 3, Ch. 559, L. 2005.

15-39-104. Examination of statement — adjustments — delivery of notices and demands. (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to 15-39-102 constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's statement, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the statement unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the statement and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the statement.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's statement, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

History: En. Sec. 4, Ch. 559, L. 2005.

15-39-105. Penalties and interest for violation. (1) (a) A person who fails to file a statement as required by 15-39-102 must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the statement required by 15-39-102 and to pay the tax on or before the due date must be assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216.

History: En. Sec. 5, Ch. 559, L. 2005; amd. Sec. 12, Ch. 44, L. 2007; amd. Sec. 3, Ch. 364, L. 2009.

15-39-106. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

History: En. Sec. 6, Ch. 559, L. 2005.

15-39-107. Interest on deficiency — penalty. (1) Interest accrues on unpaid or delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the statement and tax were originally due.

(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216(2) must be added to the amount of the deficiency.

History: En. Sec. 7, Ch. 559, L. 2005; amd. Sec. 13, Ch. 44, L. 2007.

15-39-108. Limitations. (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent statement violating the provisions of this part, a deficiency may not be assessed or collected with respect to a tax period for which a statement is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the statement was filed. For purposes of this section, a statement filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

History: En. Sec. 8, Ch. 559, L. 2005.

15-39-109. Credit or refund for overpayment — refund from county — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any semiannual period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed pursuant to 15-39-110, must be withheld from the current distribution made pursuant to 15-39-110.

(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to 15-39-110 and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the department.

(3) Except as provided in subsection (4), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the statement or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the statement is due or from the date on which the statement is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

History: En. Sec. 9, Ch. 559, L. 2005.

15-39-110. Distribution of taxes. (1) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines. The tax is distributed as follows:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-109;

(b) 20.75% to the school equalization and property tax reduction account established in 20-9-336 to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360; and

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-109, 20-9-331, 20-9-333, and 20-9-360.

(2) Except as provided in subsection (5), the department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the previous year.

(3) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection (3)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law.

(4) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department for distribution as provided in this section.

(5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

History: En. Sec. 10, Ch. 559, L. 2005; amd. Sec. 1, Ch. 89, L. 2007; amd. Sec. 6, Ch. 57, L. 2009; amd. Sec. 28, Ch. 128, L. 2011; amd. Sec. 8, Ch. 173, L. 2017; amd. Sec. 11, Ch. 3, L. 2019; amd. Sec. 1, Ch. 94, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 94, L. 2025. Amendment effective July 1, 2025.

15-39-111. Administration — rules. The department shall:

(1) administer and enforce the provisions of this part;

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of this part; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of this part.

History: En. Sec. 11, Ch. 559, L. 2005.

CHAPTERS 40 THROUGH 43
RESERVED

CHAPTER 44
FOREST LANDS TAX

Part 1 — General Provisions

15-44-101. Short title.
15-44-102. Definitions.
15-44-103. Legislative intent — value of forest lands — valuation zones.
15-44-104. Reduction in valuation on forest lands for trees destroyed by natural disaster.
15-44-105. Administration — rules.
15-44-106. Tax on change of use of part of tract.

Part 1
General Provisions

15-44-101. Short title. This part may be cited as the "Forest Lands Tax Act".

History: En. Sec. 1, Ch. 783, L. 1991.

15-44-102. Definitions. For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Culmination of mean annual increment" means the point of optimum net wood production on an acre of forest land.

(2) "Cultivated Christmas trees" means Christmas trees that are grown on land prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled for the exclusive purpose of raising Christmas trees.

(3) "Department" means the department of revenue.

(4) "Forest" means forest land and the timber on the land.

(5) "Forest land" means contiguous land of 15 acres or more in one ownership that is capable of producing timber that can be harvested in commercial quantity and is producing timber unless the trees have been removed through harvest, including clearcuts, or by natural disaster, including but not limited to fire. Forest land includes land:

(a) that has not been converted to another use; and

(b) on which the annual net wood production equals or exceeds 25 cubic feet an acre at the culmination of mean annual increment.

(6) "Forest productivity value" means the value of forest land for assessment purposes, which value is determined only on the basis of its potential to produce timber, other forest products, and associated agricultural products through an income approach provided for in 15-44-103.

(7) "Harvest" means an activity related to the cutting or removal of timber for use or sale as a forest product.

(8) "Landowner" means an individual, corporation, association, company, firm, joint venture, syndicate, or trust.

(9) "Mean annual net wood production" means the average net usable volume of wood that 1 acre of forest land will grow in 1 year under average current and actual forest conditions and under current and reasonable management practices for each forest valuation zone established under 15-44-103.

(10) "Stumpage value" means the amount that timber would sell for under an arm's-length transaction made in the ordinary course of business, expressed in terms of dollars per unit of measure.

(11) (a) "Timber" means all wood growth on privately owned land, mature or immature, alive or dead, standing or down, that is capable of furnishing raw material used in the manufacture of lumber or other forest products.

(b) The term does not include cultivated Christmas trees.

History: En. Sec. 2, Ch. 783, L. 1991; amd. Sec. 2, Ch. 297, L. 1997; amd. Sec. 182, Ch. 56, L. 2009.

15-44-103. Legislative intent — value of forest lands — valuation zones. (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land productivity valuation for each forest valuation zone, the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula V = I/R, where:

(a) V is the per-acre forest productivity value of the forest land;

(b) I is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula I = (M x SV) + AI - C, where:

(i) I is the per-acre net income;

(ii) M is the mean annual net wood production;

(iii) SV is the stumpage value;

(iv) AI is the per-acre agriculture-related income; and

(v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

(c) R is the capitalization rate determined by the department as provided in subsection (6).

(5) Net income must:

(a) be calculated for each year of a base period, which is the most recent 10-year period for which data is available prior to the date the revaluation cycle ends. Data referred to in subsection (4)(b) must be averaged.

(b) be based on the average stumpage value of timber harvested within the forest valuation zone, excluding the lowest and highest annual stumpage value in the period, and on the associated production cost data for the base period from sources considered appropriate by the department; and

(c) include agriculture-related net income for the same time period as the period used to determine average stumpage values.

(6) The capitalization rate must be calculated for each year of the base period and is the average capitalization rate determined by the department after consultation with the forest lands taxation advisory committee, plus the effective tax rate. The capitalization rate must be adopted by rule. However, the capitalization rate for each year of the base period may not be less than 8%.

(7) The effective tax rate must be calculated for each year of the base period by dividing the total estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

(8) For the purposes of this section, if forest service sales are used in the determination of stumpage values, the department shall take into account purchaser road credits.

(9) (a) There is a forest lands taxation advisory committee consisting of:

(i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the minority leader of the house of representatives; and

(ii) five members appointed by the governor, two who are industrial forest landowners, two who are nonindustrial forest landowners, and one who is a county commissioner.

(b) (i) Except as otherwise provided in this subsection (9)(b), each member must be appointed to a 4-year term.

(ii) Legislative leaders shall appoint members by July 1 of the year of a regular legislative session. The initial terms must be for 2 years. If a leader appoints a member of the legislature and

the legislator leaves the chamber in which the legislator served at the time of the appointment prior to the completion of the term, the leader that appointed the legislator shall appoint a successor.

(iii) The governor shall appoint members by July 1 of each year. The initial membership must consist of one member appointed for 1 year, one member appointed for 2 years, one member appointed for 3 years, and two members appointed for 4 years.

(c) The advisory committee shall:

(i) review data required by subsections (2) through (6) and (8), including data on productivity value, stumpage value, wood production, capitalization rate, net income, and agriculture-related income;

(ii) recommend to the department any adjustments to data if required by changes in government forest land programs, market conditions, or prevailing forest lands practices;

(iii) recommend appropriate base periods and averaging methods to the department;

(iv) verify for each forest valuation zone and forest land classification and subclassification under subsection (3) that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained;

(v) recommend forest land valuation techniques to the department;

(vi) meet in Montana at least once a year; and

(vii) report biennially on committee activity, in accordance with 5-11-210, to the revenue interim committee provided for in 5-5-227.

History: En. Sec. 3, Ch. 783, L. 1991; amd. sec. 36, Ch. 308, L. 1995; amd. Sec. 3, Ch. 297, L. 1997; amd. Sec. 11, Ch. 483, L. 2009; amd. Sec. 6, Ch. 356, L. 2011; amd. Sec. 29, Ch. 361, L. 2015; amd. Sec. 1, Ch. 141, L. 2021; amd. Sec. 5, Ch. 638, L. 2023; amd. Sec. 1, Ch. 4, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 4, L. 2025. Amendment effective February 27, 2025.

15-44-104. Reduction in valuation on forest lands for trees destroyed by natural disaster. (1) Forest lands upon which, at any time after December 31, 1993, trees are destroyed by fire, disease, insect infestation, or other natural disaster so that the lands affected will not meet minimum stocking requirements are eligible for a reduction in value for the first 20 tax years following the loss.

(2) If a landowner shows to the department's satisfaction that the landowner's forest lands have been destroyed as provided in subsection (1), the department shall reduce the value of the forest land by 50% of the original forest productivity value per year.

History: En. Sec. 4, Ch. 783, L. 1991.

15-44-105. Administration — rules. The department shall:

(1) administer and enforce the provisions of this part;

(2) arrange for the preparation and distribution of forms and information necessary to administer the provisions of this part; and

(3) promulgate rules necessary to administer and enforce the provisions of this part.

History: En. Sec. 5, Ch. 783, L. 1991.

15-44-106. Tax on change of use of part of tract. (1) Land that is valued, assessed, and taxed under this part that is separated or split from forest land, either by conveyance or by other action of the owner, for a use other than forest land or associated forest land management, must be reclassified by the department according to its use.

(2) Reclassification under subsection (1) does not impair the right of the remaining forest land that was not reclassified based on use as long as the land meets the minimum requirements of this part.

History: En. Sec. 1, Ch. 333, L. 2017.

CHAPTERS 45 THROUGH 49
RESERVED

CHAPTER 50
PUBLIC CONTRACTOR'S FEES AND TAX

Part 1 — General Provisions

15-50-101. Definitions.
15-50-102. Renumbered 37-71-102.
15-50-103. Renumbered 37-71-103.
15-50-104. Renumbered 37-71-104.
15-50-105. Renumbered 37-71-105.

Part 2 — Tax on Contractors

15-50-201. Renumbered 37-71-201.
15-50-202. Renumbered 37-71-202.
15-50-203. Renumbered 37-71-203.
15-50-204. Renumbered 37-71-204.
15-50-205. Tax imposed on gross receipts from public contracts.
15-50-206. Withholding license fee from payments — refunds.
15-50-207. Credit against other taxes — credit for personal property taxes and certain fees.
15-50-208 through 15-50-210 reserved.
15-50-211. Renumbered 37-71-211.
15-50-212. Renumbered 37-71-212.
15-50-213. Renumbered 37-71-213.

Part 3 — Contractor's Tax Return

15-50-301. Rules for contractor's return.
15-50-302. Renumbered 37-71-301.
15-50-303. Renumbered 37-71-302.
15-50-304. Statute of limitations.
15-50-305 and 15-50-306 reserved.
15-50-307. Inspection of books of contractor.
15-50-308. Estimation of tax upon failure to file statement or pay tax — penalty and interest — notice.
15-50-309. Penalty and interest for delinquency — waiver.
15-50-310. Warrant for distraint.
15-50-311. Disposal of license taxes.

Part 1
General Provisions

15-50-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means the department of revenue as provided in 2-15-1301.

(2) "Gross receipts" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross receipts does not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

(3) (a) "Public contractor" means any person who submits a proposal to perform or enters into a contract for performing public construction work in the state with the federal government or state of Montana; with any board, commission, or department of the state; with any board of county commissioners, any city or town council, or any agency of any of them; or with any other public board, body, commission, or agency authorized to let or award contracts for any public work when the contract cost, value, or price exceeds the sum of $80,000.

(b) The term public contractor includes subcontractors undertaking to perform work covered by the original contract or any part of the contract when the contract cost, value, or price exceeds the sum of $80,000.

History: En. Sec. 1, Ch. 195, L. 1967; amd. Sec. 12, Ch. 52, L. 1977; R.C.M. 1947, 84-3501(3); MCA 1981, 15-50-101; redes. 37-71-101 by Code Commissioner, 1983; Sec. 37-71-101(3), MCA 1983; redes. 15-50-101 by Code Commissioner, 1985; amd. Sec. 1, Ch. 558, L. 1995; amd. Sec. 37, Ch. 51, L. 1999; amd. Sec. 1, Ch. 751, L. 2023.

15-50-102. Renumbered 37-71-102. Code Commissioner, 1983.

15-50-103. Renumbered 37-71-103. Code Commissioner, 1983.

15-50-104. Renumbered 37-71-104. Code Commissioner, 1983.

15-50-105. Renumbered 37-71-105. Code Commissioner, 1983.

Part 2
Tax on Contractors

15-50-201. Renumbered 37-71-201. Code Commissioner, 1983.

15-50-202. Renumbered 37-71-202. Code Commissioner, 1983.

15-50-203. Renumbered 37-71-203. Code Commissioner, 1983.

15-50-204. Renumbered 37-71-204. Code Commissioner, 1983.

15-50-205. Tax imposed on gross receipts from public contracts. (1) A public contractor, unless the contractor constructs or works on a federal research facility, shall pay to the department a license fee in a sum equal to 1% of the gross receipts, as defined in 15-50-101, from public contracts during the income year in which the public contractor receives payment.

(2) The license fee must be computed upon the basis of the entire contract for each separate contract let by any of the public bodies as provided for in 15-50-206.

History: En. Sec. 5, Ch. 178, L. 1935; re-en. Sec. 2433.5, R.C.M. 1935; amd. Sec. 1, Ch. 113, L. 1939; amd. Sec. 2, Ch. 195, L. 1967; amd. Sec. 1, Ch. 180, L. 1974; R.C.M. 1947, 84-3505(part); amd. Sec. 7, Ch. 240, L. 1983; amd. Sec. 1, Ch. 741, L. 1985; amd. Sec. 2, Ch. 558, L. 1995; amd. Sec. 36, Ch. 114, L. 2003.

15-50-206. Withholding license fee from payments — refunds. (1) The prime contractor shall withhold the 1% license fee from payments to subcontractors and inform the department on prescribed forms of the amount of the 1% license fee in the prime contractor's account to be allocated and transferred to the subcontractor. The notification to transfer portions of the 1% license fee must be filed within 30 days after each payment is made to subcontractors. If any prime contractor fails to file the required allocation and transfer report at the time required under the provisions of this chapter, a penalty computed at the rate of 10% of the 1% license fee withheld from subcontractors is due from the prime contractor.

(2) The state, county, city, or any agency or department of the state, county, or city for whom the contractor is performing public work shall withhold, in addition to other amounts withheld as provided by law, 1% of all payments due the contractor and shall transmit that money to the department. If the 1% of gross receipts, as defined in 15-50-101, is not withheld as provided, the contractor shall make payment of these amounts to the department within 30 days after the date on which the contractor receives each increment of payment for work performed by the contractor.

(3) Any overpayment of the 1% of gross receipts, as defined in 15-50-101, withheld or paid by any contractor must be refunded by the department at the end of the income year upon written application.

History: (1)En. Sec. 5, Ch. 178, L. 1935; re-en. Sec. 2433.5, R.C.M. 1935; amd. Sec. 1, Ch. 113, L. 1939; amd. Sec. 2, Ch. 195, L. 1967; amd. Sec. 1, Ch. 180, L. 1974; Sec. 84-3505, R.C.M. 1947; (2), (3)En. Sec. 3, Ch. 195, L. 1967; amd. Sec. 144, Ch. 516, L. 1973; Sec. 84-3513, R.C.M. 1947; R.C.M. 1947, 84-3505(part), 84-3513; amd. Sec. 8, Ch. 240, L. 1983; amd. Sec. 3, Ch. 558, L. 1995; amd. Sec. 37, Ch. 114, L. 2003.

15-50-207. Credit against other taxes — credit for personal property taxes and certain fees. (1) (a) The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the contractor's corporate income tax provided for in chapter 31 of this title or on the contractor's income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay under the laws of the state.

(b) The credit allowed under this subsection (1) may be used as a carryforward against taxes imposed by chapter 30 or 31 for the 5 succeeding tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(2) Personal property taxes and the fee in lieu of tax on buses, trucks having a manufacturer's rated capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration fee on light vehicles, as provided in 61-3-321(2) and 61-3-562, paid in

Montana on any personal property or vehicle of the contractor that is used in the business of the contractor and is located within this state may be credited against the license fees required under this chapter. However, in computing the tax credit allowed by this section against the contractor's income tax or corporate income tax, the tax credit against the license fees required under this chapter may not be considered as license fees paid for the purpose of the income tax or corporate income tax credit.

History: En. Sec. 4, Ch. 195, L. 1967; R.C.M. 1947, 84-3514; amd. Sec. 22, Ch. 614, L. 1981; amd. Sec. 12, Ch. 516, L. 1985; amd. Sec. 14, Ch. 611, L. 1987; amd. Sec. 8, Ch. 496, L. 1997; amd. Sec. 11, Ch. 515, L. 1999; amd. Sec. 1, Ch. 454, L. 2005; amd. Sec. 15, Ch. 542, L. 2005; amd. Sec. 32, Ch. 268, L. 2013.

15-50-208 through 15-50-210 reserved.

15-50-211. Renumbered 37-71-211. Code Commissioner, 1983.

15-50-212. Renumbered 37-71-212. Code Commissioner, 1983.

15-50-213. Renumbered 37-71-213. Code Commissioner, 1983.

Part 3
Contractor's Tax Return

15-50-301. Rules for contractor's return. The department shall establish rules requiring public contractors to file a contractor's return showing public works contracts performed during a calendar year.

History: (1)En. Sec. 5, Ch. 195, L. 1967; amd. Sec. 145, Ch. 516, L. 1973; R.C.M. 1947, 84-3515(part); (2) En. Sec. 6, Ch. 195, L. 1967; amd. Sec. 146, Ch. 516, L. 1973; R.C.M. 1947, 84-3516; Sec. 37-71-302(2), MCA 1983; redes. 15-50-301(2) by Code Commissioner, 1985; amd. Sec. 4, Ch. 108, L. 2001.

15-50-302. Renumbered 37-71-301. Code Commissioner, 1983.

15-50-303. Renumbered 37-71-302. Code Commissioner, 1983.

15-50-304. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a public contractor's gross receipts tax return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last day. If the taxpayer, before the expiration of the 5-year period, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue determines the existence of the overpayment and approves the refund or credit thereof. If the taxpayer agrees in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If the return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery by the department of the fraud.

History: En. Sec. 1, Ch. 437, L. 1985.

15-50-305 and 15-50-306 reserved.

15-50-307. Inspection of books of contractor. The books and records of a public contractor must be subject to inspection by the department during reasonable hours.

History: En. Sec. 4, Ch. 558, L. 1995.

15-50-308. Estimation of tax upon failure to file statement or pay tax — penalty and interest — notice. (1) If a person fails to file the statement required by 15-50-206 within the time required or fails to pay the tax required by this chapter on or before the date payment is due, the department shall determine as best it may the total gross income of the person from its contracting business within this state during the quarter.

(2) The department shall compute the amount of license taxes due, including penalty and interest as provided in 15-1-216, from the person and shall mail to the person a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

History: En. Sec. 5, Ch. 558, L. 1995; amd. Sec. 29, Ch. 594, L. 2005.

15-50-309. Penalty and interest for delinquency — waiver. (1) License taxes due under this chapter become delinquent if not paid within 30 days after payment to the contractor. The department shall add to the amount of all delinquent license taxes penalty and interest as provided in 15-1-216.

(2) Penalties imposed by 15-1-216 may be waived by the department pursuant to 15-1-206.

History: En. Sec. 6, Ch. 558, L. 1995; amd. Sec. 32, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-50-310. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand that is filed and recorded after the warrant is issued.

History: En. Sec. 7, Ch. 558, L. 1995.

15-50-311. Disposal of license taxes. License taxes collected under this chapter must be deposited by the department with the state treasurer, who shall, in accordance with the provisions of 17-2-124, credit the license taxes to the state general fund.

History: En. Sec. 8, Ch. 558, L. 1995; amd. Sec. 6, Ch. 475, L. 2007.

CHAPTER 51
ELECTRICAL ENERGY PRODUCER'S LICENSE TAX

Part 1 — General Provisions

15-51-101. Rate of tax — electrical energy producers.
15-51-102. Payment of tax — may be itemized on customers' bills.
15-51-103. Disposition of revenue — penalty and interest on delinquency.
15-51-104. Inspection of books of producer.
15-51-105. Repealed.
15-51-106. Future producers to comply.
15-51-107 and 15-51-108 reserved.
15-51-109. Deficiency assessment — review — penalty and interest.
15-51-110. Credit for overpayment — interest on overpayment.
15-51-111. Procedure to compute tax in absence of statement — waiver of penalty.
15-51-112. Warrant for distraint.
15-51-113. Penalty for violation — enforcement.
15-51-114. Statute of limitations.
15-51-115 through 15-51-125 reserved.
15-51-126. Terminated.

Part 1
General Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.
Tax on companies regulated by Public Service Commission to fund Consumer Counsel, 69-1-223.

15-51-101. Rate of tax — electrical energy producers. In addition to the license tax now provided by law, each person or other organization now engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through water power or by any other means, for barter, sale, or exchange (and hereinafter referred to as the "producer") shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated

during the preceding calendar quarter without any deduction and shall pay a license tax thereon in the sum of $.0002 per kilowatt hour on all such electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

History: En. Sec. 1, Ch. 51, Ex. L. 1933; re-en. Sec. 2343.1, R.C.M. 1935; amd. Sec. 1, Ch. 83, L. 1937; amd. Sec. 1, Ch. 214, L. 1957; amd. Sec. 1, Ch. 5, Ex. L. 1969; amd. Sec. 1, Ch. 391, L. 1971; amd. Sec. 69, Ch. 516, L. 1973; amd. Sec. 4, Ch. 52, L. 1977; amd. Sec. 1, Ch. 401, L. 1977; R.C.M. 1947, 84-1601.

Cross-References

Exemption of rural electric cooperatives, 35-18-503.

15-51-102. Payment of tax — may be itemized on customers' bills. The license tax must be remitted with the statement and paid on or before the 30th day of the month after each calendar quarter. A customer's bill or statement may contain an itemized amount of the tax imposed by 15-51-101.

History: En. Sec. 2, Ch. 51, Ex. L. 1933; re-en. Sec. 2343.2, R.C.M. 1935; amd. Sec. 2, Ch. 5, Ex. L. 1969; amd. Sec. 2, Ch. 401, L. 1977; R.C.M. 1947, 84-1602; amd. Sec. 1, Ch. 199, L. 1999; amd. Sec. 28, Ch. 556, L. 1999.

15-51-103. Disposition of revenue — penalty and interest on delinquency. The department shall, in accordance with the provisions of 17-2-124, promptly remit the collected taxes to the state treasurer. Taxes not paid on the due date are delinquent, and penalty and interest must be added to the delinquent taxes as provided in 15-1-216.

History: En. Sec. 3, Ch. 51, Ex. L. 1933; amd. Sec. 20(F), Ch. 109, L. 1935; re-en. Sec. 2343.3, R.C.M. 1935; amd. Sec. 1, Ch. 83, L. 1937; amd. Sec. 6, Ch. 14, L. 1941; amd. Sec. 70, Ch. 516, L. 1973; amd. Sec. 3, Ch. 401, L. 1977; R.C.M. 1947, 84-1603; amd. Sec. 11, Ch. 455, L. 1993; amd. Sec. 15, Ch. 18, L. 1995; amd. Sec. 33, Ch. 427, L. 1999; amd. Sec. 7, Ch. 475, L. 2007.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.
Disposition of money from certain designated license and other taxes, 17-2-124.

15-51-104. Inspection of books of producer. The books and records of an electrical energy producer must be subject to inspection by the department during reasonable hours.

History: En. Sec. 5, Ch. 51, Ex. L. 1933; re-en. Sec. 2343.5, R.C.M. 1935; amd. Sec. 72, Ch. 516, L. 1973; amd. Sec. 4, Ch. 401, L. 1977; R.C.M. 1947, 84-1605; amd. Sec. 124, Ch. 27, Sp. L. November 1993.

15-51-105. Repealed. Sec. 35, Ch. 581, L. 1979.

History: En. Sec. 8, Ch. 51, Ex. L. 1933; re-en. Sec. 2343.8, R.C.M. 1935; amd. Sec. 74, Ch. 516, L. 1973; amd. Sec. 6, Ch. 126, L. 1977; R.C.M. 1947, 84-1608.

15-51-106. Future producers to comply. Any producer of electricity or electrical energy referred to in 15-51-101 who shall hereafter engage in the generation, production, or manufacture of electricity or electrical energy shall immediately upon purchasing or acquiring the plant or installing equipment therefor comply with the requirements of this chapter.

History: En. Sec. 7, Ch. 51, Ex. L. 1933; amd. Sec. 1, Ch. 20, L. 1935; re-en. Sec. 2343.7, R.C.M. 1935; R.C.M. 1947, 84-1607.

15-51-107 and 15-51-108 reserved.

15-51-109. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 20, Ch. 811, L. 1991; amd. Sec. 34, Ch. 427, L. 1999; amd. Sec. 30, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-51-110. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as provided in 15-1-216 due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this chapter may not be considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 35, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-51-111. Procedure to compute tax in absence of statement — waiver of penalty. (1) If any person fails to file any statement required by 15-51-101 within the time required, the department shall, after the time has expired, determine the number of KWH produced by the person in this state during the quarter and compute the amount of taxes due to the state from the person for the quarter and add penalty and interest as required by 15-1-216. The department shall mail to the person required to file a quarterly report and pay the tax a letter setting forth the amount of tax, penalty, and interest due, and the letter must contain a statement that if payment is not made, a warrant for distraint may be filed.

(2) A penalty imposed by 15-1-216 may be waived by the department pursuant to 15-1-206.

History: En. 84-1610 by Sec. 5, Ch. 401, L. 1977; R.C.M. 1947, 84-1610; amd. Sec. 28, Ch. 581, L. 1979; amd. Sec. 23, Ch. 439, L. 1981; amd. Sec. 36, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-51-112. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-1611 by Sec. 6, Ch. 401, L. 1977; R.C.M. 1947, 84-1611; amd. Sec. 24, Ch. 439, L. 1981.

15-51-113. Penalty for violation — enforcement. Any producer referred to in 15-51-101 who shall violate any of the provisions of this chapter or who shall fail to pay the license tax herein provided for or any part thereof when due shall be liable for three times the amount of the unpaid or delinquent tax in a civil action instituted for that purpose in a court of competent jurisdiction in the name of the state of Montana, and in such suit, upon application of the state, an injunction may be issued, without requiring any bond, restraining the defendant from continuing to produce electricity or electrical energy so long as the tax due hereunder from said defendant remains delinquent.

History: En. Sec. 9, Ch. 51, Ex. L. 1933; re-en. Sec. 2343.9, R.C.M. 1935; R.C.M. 1947, 84-1609.

Cross-References

Execution of judgment, Title 25, ch. 13.

15-51-114. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the

period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-51-115 through 15-51-125 reserved.

15-51-126. Terminated. Sec. 39(4), Ch. 15, Sp. L. July 1992.

History: En. Sec. 10, Ch. 15, Sp. L. July 1992.

CHAPTER 52
COLLECTION OF TRANSPORTATION AND COMMUNICATIONS LICENSE TAXES (Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions (Repealed)

15-52-101. Repealed. Sec. 22, Ch. 294, L. 1979.

History: En. 84-7701 by Sec. 1, Ch. 36, L. 1977; R.C.M. 1947, 84-7701.

15-52-102. Repealed. Sec. 22, Ch. 294, L. 1979.

History: En. 84-7702 by Sec. 2, Ch. 36, L. 1977; R.C.M. 1947, 84-7702.

15-52-103. Repealed. Sec. 22, Ch. 294, L. 1979.

History: En. 84-7703 by Sec. 3, Ch. 36, L. 1977; R.C.M. 1947, 84-7703.

CHAPTER 53
RETAIL TELECOMMUNICATIONS EXCISE TAX

Part 1 — General Provisions

15-53-101. Repealed.
15-53-102. Repealed.
15-53-103. Repealed.
15-53-104. Repealed.
15-53-105. Repealed.
15-53-106. Repealed.
15-53-107 through 15-53-110 reserved.
15-53-111. Repealed.
15-53-112. Repealed.
15-53-113. Repealed.
15-53-114. Repealed.
15-53-115. Repealed.
15-53-116 through 15-53-125 reserved.
15-53-126. Terminated.
15-53-127. Short title.
15-53-128. Legislative findings and declaration of purpose.
15-53-129. Definitions.
15-53-130. Imposition of retail telecommunications excise tax — rate.
15-53-131. Mobile telecommunications services.
15-53-132. Telecommunications services other than mobile telecommunications services.
15-53-133 and 15-53-134 reserved.
15-53-135. Separate statement of tax — no advertising to absorb or refund tax.

15-53-136. Multistate exemption.
15-53-137. Application for permission to report on accrual basis.
15-53-138. Rural telephone cooperatives and rural electric cooperatives — subject to excise tax.
15-53-139. Return required of telecommunications services providers.
15-53-140. Credit for taxes paid on worthless account — taxes paid if account collected.
15-53-141 through 15-53-144 reserved.
15-53-145. Deficiency assessment — review — interest — penalty.
15-53-146. Credit for overpayment — interest on overpayment.
15-53-147. Penalty and interest for delinquency — waiver.
15-53-148. Estimation of tax upon failure to file return — notice.
15-53-149. Warrant for distraint.
15-53-150. Statute of limitations.
15-53-151 through 15-53-154 reserved.
15-53-155. Administration — rules.
15-53-156. Retail telecommunications excise tax revenue.

Part 2 — Tax Credit (Repealed)

Chapter Cross-References

Disposition of money from certain designated license and other taxes, 17-2-124.

Tax on companies regulated by Public Service Commission to fund Consumer Counsel, 69-1-223.

Part 1
General Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-53-101. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 1, Ch. 94, L. 1937; amd. Sec. 1, Ch. 41, L. 1947; amd. Sec. 1, Ch. 213, L. 1957; amd. Sec. 1, Ch. 7, Ex. L. 1969; amd. Sec. 1, Ch. 326, L. 1971; R.C.M. 1947, 84-2601; amd. Sec. 1, Ch. 742, L. 1991; amd. Sec. 1, Ch. 535, L. 1999.

15-53-102. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 2, Ch. 94, L. 1937; amd. Sec. 2, Ch. 213, L. 1957; amd. Sec. 2, Ch. 7, Ex. L. 1969; amd. Sec. 2, Ch. 326, L. 1971; amd. Sec. 138, Ch. 516, L. 1973; R.C.M. 1947, 84-2602; amd. Sec. 1, Ch. 294, L. 1979; amd. Sec. 2, Ch. 742, L. 1991.

15-53-103. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 5, Ch. 94, L. 1937; amd. Sec. 140, Ch. 516, L. 1973; R.C.M. 1947, 84-2605.

15-53-104. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 3, Ch. 94, L. 1937; amd. Sec. 139, Ch. 516, L. 1973; R.C.M. 1947, 84-2603.

15-53-105. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 2, Ch. 676, L. 1991; amd. Sec. 3, Ch. 742, L. 1991; amd. Sec. 21, Ch. 811, L. 1991; amd. Sec. 37, Ch. 427, L. 1999.

15-53-106. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 38, Ch. 427, L. 1999.

15-53-107 through 15-53-110 reserved.

15-53-111. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En Sec. 2, Ch. 294, L. 1979; amd. Sec. 3, Ch. 676, L. 1991; amd. Sec. 4, Ch. 742, L. 1991; amd. Sec. 39, Ch. 427, L. 1999.

15-53-112. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En Sec. 3, Ch. 294, L. 1979; amd. Sec. 25, Ch. 439, L. 1981.

15-53-113. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En Sec. 4, Ch. 294, L. 1979; amd. Sec. 26, Ch. 439, L. 1981.

15-53-114. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En Sec. 5, Ch. 294, L. 1979; amd. Sec. 12, Ch. 455, L. 1993; amd. Sec. 16, Ch. 18, L. 1995.

15-53-115. Repealed. Sec. 40, Ch. 426, L. 1999.

History: En. Sec. 1, Ch. 194, L. 1983.

15-53-116 through 15-53-125 reserved.

15-53-126. Terminated. Sec. 39(4), Ch. 15, Sp. L. July 1992.
History: En. Sec. 11, Ch. 15, Sp. L. July 1992.

15-53-127. Short title. This part may be cited as the "Retail Telecommunications Excise Tax Act".
History: En. Sec. 1, Ch. 426, L. 1999.

15-53-128. Legislative findings and declaration of purpose. (1) The legislature finds that one measure of the state's economic competitiveness is the presence of an efficient and affordable telecommunications infrastructure using the latest technological advancements.

(2) The legislature further finds that the telecommunications industry is undergoing a dramatic change that is altering the identity of its participants, the nature of services that the industry provides, and the methods used to deliver those services.

(3) The legislature further finds that the existing method of property taxation of the telecommunications industry results in competitive inequities that hinder the investment in the state's telecommunications infrastructure.

(4) The legislature further finds that the evolving nature of the telecommunications industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to telecommunications property and imposing a replacement tax in order to:

(a) avoid placing telecommunications services providers at a competitive advantage or disadvantage;

(b) provide purchasers of telecommunications services with greater choices and lower retail prices; and

(c) preserve the revenue base of the existing property tax system for taxing jurisdictions in the state.

(5) The legislature further finds that a reduction in property tax rates applied to telecommunications services providers should be replaced with an excise tax on the purchasers of telecommunications services.

(6) The legislature further finds that taxes imposed on the telecommunications industry are in reality hidden taxes that are passed on to telecommunications customers in the form of higher prices and that such a policy is contrary to the principles of open government and a fully informed citizenry on the tax policies of the state.

(7) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of telecommunications services providers and to impose a retail telecommunications excise tax measured by the price of retail telecommunications on the purchaser to ensure competitive neutrality and constancy of revenue to taxing jurisdictions in the state of Montana.

(8) The legislature further declares that to avoid additional competitive advantages or disadvantages, the telephone company license tax must be eliminated.
History: En. Sec. 2, Ch. 426, L. 1999.

15-53-129. *(Temporary)* **Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Call-by-call basis" means any method of charging for telecommunications services that measures the price by individual calls.

(2) (a) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in effect on June 1, 1999.

(3) (a) "Customer" or "purchaser" means, except as provided in subsection (3)(b), a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(b) For purposes of mobile telecommunications services, the term means:

(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

(ii) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services, but only for the purpose of determining the place of primary use.

(c) The term does not include:

(i) a reseller of mobile telecommunications services; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(4) "Home service provider" means the facilities-based carrier or reseller that the customer contracts with for the provision of mobile telecommunications services.

(5) "Mobile telecommunications services" means commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address for the premises where the customer's use of telecommunications services primarily occurs, which must be the residential street address or the primary business street address of the customer. For mobile telecommunications services, the place of primary use must be within the licensed service area of the home service provider.

(7) "Postpaid calling basis" means that telecommunications services are obtained by making a payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(8) "Private communications service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and other associated services that are provided in connection with the use of the channel or channels.

(9) (a) "Reseller" means a provider who purchases mobile telecommunications services from another telecommunications services provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service.

(b) The term does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(10) (a) "Retail telecommunications" means, except as provided in subsection (10)(b), the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is charged to a customer with a Montana service address.

(b) For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information that originates or terminates in a single state that is charged to a Montana service address.

(c) The term includes but is not limited to local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.

(11) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) The term does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201 and 53-19-311;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) charges for the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(12) (a) "Service address" means, except as provided in subsection (12)(b):

(i) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the location from which the payment of the bill is received;

(ii) if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, in information received by the seller from its service provider; or

(iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's place of primary use.

(b) For mobile telecommunications services, the term means the location in Montana of the customer's place of primary use.

(13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications services to a customer outside a home service provider's or reseller's licensed service area.

(14) "Telecommunications services provider" means a person providing retail telecommunications services. *(Terminates on occurrence of contingency—sec. 8, Ch. 515, L. 2003.)*

15-53-129. *(Effective on occurrence of contingency)* **Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is billed to a customer with a Montana service address. The term includes but is not limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

(3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201 and 53-19-311;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(4) "Service address" means:

(a) the location from where the retail telecommunications services originated or where the retail telecommunications services are received; or

(b) where there is not a defined location, the location in Montana where the statement of charges for retail telecommunications services is mailed.

(5) "Telecommunications services provider" means a person providing retail telecommunications services.

History: En. Sec. 3, Ch. 426, L. 1999; amd. Sec. 1, Ch. 484, L. 2001; amd. Sec. 1, Ch. 515, L. 2003; amd. Sec. 1, Ch. 476, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 476, L. 2025. Amendment effective May 8, 2025.

Contingent Termination: Section 8, Ch. 515, L. 2003, provided: "The attorney general shall certify to the code commissioner if a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal and that, based on federal law, substantially limits or impairs the essential elements of 4 U.S.C. 116 through 126. Upon certification, [this act] is void as of the date judgment was entered."

15-53-130. *(Temporary)* **Imposition of retail telecommunications excise tax — rate.** An excise tax of 3.75% is imposed on the sales price of retail telecommunications services. Subject to 15-53-131 and 15-53-132, the tax is imposed on the purchaser and must be collected by the telecommunications services provider. *(Terminates on occurrence of contingency—sec. 8, Ch. 515, L. 2003.)*

15-53-130. *(Effective on occurrence of contingency)* **Imposition of retail telecommunications excise tax — rate.** An excise tax of 3.75% is imposed on the sales price of retail telecommunications services. The tax is imposed on the purchaser and must be collected by the telecommunications services provider.

History: En. Sec. 4, Ch. 426, L. 1999; amd. Sec. 2, Ch. 515, L. 2003.

Compiler's Comments

Contingent Termination: Section 8, Ch. 515, L. 2003, provided: "The attorney general shall certify to the code commissioner if a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal and that, based on federal law, substantially limits or impairs the essential elements of 4 U.S.C. 116 through 126. Upon certification, [this act] is void as of the date judgment was entered."

15-53-131. *(Temporary)* **Mobile telecommunications services.** (1) Mobile telecommunications services provided in this state to a customer for which the charges are billed by or for the customer's home service provider are considered to be provided by the customer's home service provider.

(2) All charges for mobile telecommunications services that are considered to be provided by the customer's home service provider may be subject to tax in this state if the customer's place of primary use is located within this state, regardless of where the mobile telecommunications services originate, terminate, or pass through.

(3) The definitions and provisions of the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 116 through 126, are incorporated into this section by reference.

(4) (a) If a customer believes that an amount of tax or assignment of place of primary use or taxing jurisdiction included on a bill is erroneous, the customer shall notify the home service provider in writing. The customer shall include in the written notification the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within 60 days of receiving a notice, the home service provider shall review its records and the electronic database or enhanced zip code used to determine the customer's taxing jurisdiction. If the review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to 2 years. If the review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(b) The procedures set forth in subsection (4)(a) are the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing jurisdiction or seeking a refund of or other compensation for taxes erroneously collected by the home service provider, and a cause of action based upon a dispute arising from those taxes does not accrue, to

the extent otherwise permitted by law, until a customer has reasonably exercised the rights and procedures set forth in this subsection (4). *(Terminates on occurrence of contingency—sec. 8, Ch. 515, L. 2003.)*

History: En. Sec. 3, Ch. 515, L. 2003.

Compiler's Comments

Contingent Termination: Section 8, Ch. 515, L. 2003, provided: "The attorney general shall certify to the code commissioner if a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal and that, based on federal law, substantially limits or impairs the essential elements of 4 U.S.C. 116 through 126. Upon certification, [this act] is void as of the date judgment was entered."

15-53-132. *(Temporary)* **Telecommunications services other than mobile telecommunications services.** (1) Except as provided in subsection (2), the sale of a telecommunications service paid for on a call-by-call basis is taxable in this state if the service address is located within the state.

(2) The sale of a telecommunications service paid for on a postpaid calling basis is taxable in this state if the origination point of the telecommunications signal as first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, the information received by the seller from its service provider is within the state.

(3) The sale of a private communications service is taxable in this state in the following manner:

(a) all charges related to a customer channel termination point located within the state are taxable within the state;

(b) all charges for service where all of the customer channel termination points are located entirely within the state are taxable within the state;

(c) charges for a segment of a channel between two taxpayer channel termination points, one located inside the state and one located outside the state, and for which the segment is separately charged are apportioned 50% to this state for taxation purposes; and

(d) charges for segments of a channel located in this state and one or more other states and for which the segments are not separately billed are apportioned to this state for taxation purposes based on the percentage determined by dividing the number of taxpayer channel termination points in this state by the total number of taxpayer channel termination points.

(4) In the case of a bundled transaction of telecommunications services, if the charges are attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services is subject to tax unless the provider can reasonably identify the portion of nontaxable services from its books and records kept in the regular course of business. *(Terminates on occurrence of contingency—sec. 8, Ch. 515, L. 2003.)*

History: En. Sec. 4, Ch. 515, L. 2003.

Compiler's Comments

Contingent Termination: Section 8, Ch. 515, L. 2003, provided: "The attorney general shall certify to the code commissioner if a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal and that, based on federal law, substantially limits or impairs the essential elements of 4 U.S.C. 116 through 126. Upon certification, [this act] is void as of the date judgment was entered."

15-53-133 and 15-53-134 reserved.

15-53-135. Separate statement of tax — no advertising to absorb or refund tax. (1) The excise tax imposed by this part must be separately stated on the end-user customer's bill or statement.

(2) A telecommunications services provider may not advertise, hold out, or state to the public or to any customer that the tax imposed by this part will be absorbed or refunded.

History: En. Sec. 5, Ch. 426, L. 1999.

15-53-136. Multistate exemption. A customer, upon proof that the customer has paid a tax in another state on the consumption or use of retail telecommunications services, is allowed a credit against the tax imposed by this part if the tax has been paid to another state.

History: En. Sec. 6, Ch. 426, L. 1999.

15-53-137. Application for permission to report on accrual basis. (1) A telecommunications services provider may apply to the department for permission to report and pay the retail telecommunications excise tax on an accrual basis.

(2) The application must be made on a form, prescribed by the department, that contains information that the department may reasonably require.

(3) A telecommunications services provider may not report or pay the retail telecommunications excise tax on an accrual basis unless the telecommunications services provider has received written permission from the department.

History: En. Sec. 7, Ch. 426, L. 1999.

15-53-138. Rural telephone cooperatives and rural electric cooperatives — subject to excise tax. (1) Rural telephone cooperatives or rural electric cooperatives providing retail telecommunications services in an area served by an incumbent local exchange carrier, as defined in 69-3-803, that is not a cooperative shall collect the retail telecommunications excise tax imposed by this part from customers in the incumbent local exchange carrier's service area.

(2) An incumbent local exchange carrier that is not a cooperative providing retail telecommunications services in an area served by a rural telephone cooperative is not required to collect the retail telecommunications excise tax imposed by this part from customers in the rural telephone cooperative service area.

History: En. Sec. 8, Ch. 426, L. 1999.

15-53-139. Return required of telecommunications services providers. (1) A return, on a form approved by the department, and payment of the tax for the preceding calendar quarter must be filed with the department on or before 60 days after the end of each calendar quarter in which the tax imposed by this part is payable. Each telecommunications services provider engaged in providing retail telecommunications services in this state that is subject to tax under this part shall file a return.

(2) Each telecommunications services provider liable to collect the tax under this part shall keep a record, on a form approved by the department, of all revenue received from providing retail telecommunications services for each quarter.

(3) The department may grant a reasonable extension of time for filing the return upon good cause shown.

History: En. Sec. 9, Ch. 426, L. 1999.

15-53-140. Credit for taxes paid on worthless account — taxes paid if account collected. (1) The retail telecommunications excise taxes paid on an accrual basis by a telecommunications services provider filing a return under 15-53-139 on sales found to be worthless and actually deducted by the person as bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) If the accounts are subsequently collected, the retail telecommunications excise tax must be paid on the amount collected.

History: En. Sec. 10, Ch. 426, L. 1999.

15-53-141 through 15-53-144 reserved.

15-53-145. Deficiency assessment — review — interest — penalty. (1) If the department determines that the amount of tax due is greater than the amount reported, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek a review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 11, Ch. 426, L. 1999; amd. Sec. 31, Ch. 594, L. 2005.

15-53-146. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of overpayment must be credited against any tax, penalty, or interest then due from the taxpayer, with the balance being refunded to the taxpayer or its successor through reorganization, merger, consolidation, or its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on deficiency assessments under 15-1-216 due from the date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves crediting or refunding the payment.

(3) (a) Interest may not accrue during any period of processing a claim for a refund delayed more than 30 days by reason of failure of the taxpayer to provide information requested by the department for the purposes of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is credited or refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever date is later; or

(ii) if the amount of interest is less than $1.

History: En. Sec. 12, Ch. 426, L. 1999; amd. Sec. 32, Ch. 594, L. 2005.

15-53-147. Penalty and interest for delinquency — waiver. (1) Taxes due under this part become delinquent if not paid within 60 days after the end of each calendar quarter. The department shall add to the amount of all delinquent retail telecommunications excise taxes penalty and interest, as provided in 15-1-216.

(2) Penalty and interest, as provided in 15-1-216, may be waived by the department if reasonable cause for the failure to file the return, as required by 15-53-139, or to pay the tax due is provided to the department.

History: En. Sec. 13, Ch. 426, L. 1999; amd. Sec. 5, Ch. 108, L. 2001.

15-53-148. Estimation of tax upon failure to file return — notice. (1) If a telecommunications services provider fails, neglects, or refuses to file the return required by 15-53-139 within the time required or fails to pay the tax required by this part within the period provided for in 15-53-139, the department shall estimate the amount of revenue of the telecommunications services provider subject to tax under this part during the preceding quarter.

(2) The department shall compute the amount of excise tax due from the telecommunications services provider and mail to the telecommunications services provider a letter and tax assessment statement setting forth the amount of delinquent excise tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

History: En. Sec. 14, Ch. 426, L. 1999.

15-53-149. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand filed after the department files the warrant for distraint.

History: En. Sec. 15, Ch. 426, L. 1999.

15-53-150. Statute of limitations. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless a notice of additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last day. If the taxpayer, before the expiration of the period prescribed for the assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the taxpayer files a claim for refund or the department has determined the existence of the overpayment and has approved the refund or credit of the overpayment. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a refund or credit allowed if a claim is not filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If the return is required and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 16, Ch. 426, L. 1999.

15-53-151 through 15-53-154 reserved.

15-53-155. Administration — rules. The department shall:

(1) administer and enforce the provisions of this part;

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of this part; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of this part.

History: En. Sec. 17, Ch. 426, L. 1999.

15-53-156. Retail telecommunications excise tax revenue. After retaining an allowance for refunds, retail telecommunications excise tax revenue collected by the department must, in accordance with the provisions of 17-2-124, be deposited in the state general fund.

History: En. Sec. 18, Ch. 426, L. 1999; amd. Sec. 170(1)(a)(ii), Ch. 584, L. 1999; amd. Sec. 8, Ch. 475, L. 2007.

Part 2
Tax Credit
(Repealed)

15-53-201. Repealed. Sec. 1, Ch. 36, L. 2003.

History: En. Sec. 1, Ch. 534, L. 1999.

15-53-202. Repealed. Sec. 1, Ch. 36, L. 2003.

History: En. Sec. 2, Ch. 534, L. 1999; amd. Sec. 4, Ch. 534, L. 1999; amd. Sec. 2, Ch. 484, L. 2001.

15-53-203. Repealed. Sec. 1, Ch. 36, L. 2003.

History: En. Sec. 3, Ch. 534, L. 1999; amd. Sec. 4, Ch. 534, L. 1999.

CHAPTER 54
EXPRESS COMPANY LICENSE TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-54-101. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 1, Ch. 87, L. 1917; re-en. Sec. 2305, R.C.M. 1921; re-en. Sec. 2305, R.C.M. 1935; R.C.M. 1947, 84-1701.

15-54-102. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 7, Ch. 87, L. 1917; amd. Sec. 1, Ch. 150, L. 1921; re-en. Sec. 2311, R.C.M. 1921; re-en. Sec. 2311, R.C.M. 1935; amd. Sec. 78, Ch. 516, L. 1973; R.C.M. 1947, 84-1707; amd. Sec. 6, Ch. 294, L. 1979.

15-54-103. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 2, Ch. 87, L. 1917; re-en. Sec. 2306, R.C.M. 1921; re-en. Sec. 2306, R.C.M. 1935; amd. Sec. 75, Ch. 516, L. 1973; R.C.M. 1947, 84-1702; amd. Sec. 7, Ch. 294, L. 1979.

15-54-104. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 3, Ch. 87, L. 1917; re-en. Sec. 2307, R.C.M. 1921; re-en. Sec. 2307, R.C.M. 1935; amd. Sec. 76, Ch. 516, L. 1973; R.C.M. 1947, 84-1703; amd. Sec. 8, Ch. 294, L. 1979.

15-54-105. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 9, Ch. 87, L. 1917; re-en. Sec. 2313, R.C.M. 1921; re-en. Sec. 2313, R.C.M. 1935; R.C.M. 1947, 84-1709.

15-54-106 through 15-54-110 reserved.

15-54-111. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 10, Ch. 294, L. 1979.

15-54-112. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 9, Ch. 294, L. 1979; amd. Sec. 27, Ch. 439, L. 1981.

15-54-113. Repealed. Sec. 1, Ch. 595, L. 1991.

History: En. Sec. 11, Ch. 294, L. 1979; amd. Sec. 28, Ch. 439, L. 1981.

CHAPTER 55
FREIGHT LINE COMPANY LICENSE TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-55-101. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 1, Ch. 137, L. 1949; amd. Sec. 152, Ch. 516, L. 1973; R.C.M. 1947, 84-4818.

15-55-102. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 2, Ch. 137, L. 1949; amd. Sec. 1, Ch. 346, L. 1969; R.C.M. 1947, 84-4819.

15-55-103. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 3, Ch. 137, L. 1949; amd. Sec. 2, Ch. 346, L. 1969; amd. Sec. 1, Ch. 339, L. 1971; amd. Sec. 153, Ch. 516, L. 1973; R.C.M. 1947, 84-4820.

15-55-104. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 4, Ch. 137, L. 1949; amd. Sec. 154, Ch. 516, L. 1973; amd. Sec. 4, Ch. 36, L. 1977; R.C.M. 1947, 84-4821.

15-55-105. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 5, Ch. 137, L. 1949; amd. Sec. 92, Ch. 405, L. 1973; R.C.M. 1947, 84-4822(part).

15-55-106. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 5, Ch. 137, L. 1949; amd. Sec. 92, Ch. 405, L. 1973; R.C.M. 1947, 84-4822(part); amd. Sec. 11, Ch. 20, L. 1985; amd. Sec. 22, Ch. 811, L. 1991.

15-55-107. Repealed. Sec. 29, Ch. 811, L. 1991.
History: En. Sec. 7, Ch. 137, L. 1949; amd. Sec. 98, Ch. 405, L. 1973; R.C.M. 1947, 84-4824; amd. Sec. 29, Ch. 581, L. 1979.

15-55-108. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 12, Ch. 294, L. 1979; amd. Sec. 4, Ch. 676, L. 1991.

15-55-109. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 13, Ch. 294, L. 1979; amd. Sec. 29, Ch. 439, L. 1981.

15-55-110. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 14, Ch. 294, L. 1979.

15-55-111. Repealed. Sec. 15, Ch. 10, Sp. L. July 1992.
History: En. Sec. 1, Ch. 194, L. 1983.

CHAPTER 56
SLEEPING CAR COMPANY LICENSE TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-56-101. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 1, Ch. 64, L. 1923; re-en. Sec. 2315.1, R.C.M. 1935; amd. Sec. 119, Ch. 516, L. 1973; amd. Sec. 5, Ch. 52, L. 1977; R.C.M. 1947, 84-2301.

15-56-102. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 6, Ch. 64, L. 1923; re-en. Sec. 2315.6, R.C.M. 1935; amd. Sec. 124, Ch. 516, L. 1973; R.C.M. 1947, 84-2306; amd. Sec. 15, Ch. 294, L. 1979.

15-56-103. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 2, Ch. 64, L. 1923; re-en. Sec. 2315.2, R.C.M. 1935; amd. Sec. 120, Ch. 516, L. 1973; R.C.M. 1947, 84-2302; amd. Sec. 16, Ch. 294, L. 1979.

15-56-104. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 3, Ch. 64, L. 1923; re-en. Sec. 2315.3, R.C.M. 1935; amd. Sec. 121, Ch. 516, L. 1973; R.C.M. 1947, 84-2303.

15-56-105. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 4, Ch. 64, L. 1923; re-en. Sec. 2315.4, R.C.M. 1935; amd. Sec. 122, Ch. 516, L. 1973; R.C.M. 1947, 84-2304.

15-56-106. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 5, Ch. 64, L. 1923; re-en. Sec. 2315.5, R.C.M. 1935; amd. Sec. 123, Ch. 516, L. 1973; R.C.M. 1947, 84-2305.

15-56-107. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 10, Ch. 64, L. 1923; re-en. Sec. 2315.10, R.C.M. 1935; R.C.M. 1947, 84-2310; amd. Sec. 18, Ch. 294, L. 1979.

15-56-108. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 17, Ch. 294, L. 1979.

15-56-109 and 15-56-110 reserved.

15-56-111. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 19, Ch. 294, L. 1979.

15-56-112. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 20, Ch. 294, L. 1979; amd. Sec. 30, Ch. 439, L. 1981.

15-56-113. Repealed. Sec. 2, Ch. 595, L. 1991.
History: En. Sec. 21, Ch. 294, L. 1979; amd. Sec. 31, Ch. 439, L. 1981.

CHAPTER 57
STORE LICENSES
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-57-101. Repealed. Sec. 3, Ch. 658, L. 1991.
History: En. Sec. 10, Ch. 163, L. 1939; amd. Sec. 3, Ch. 160, L. 1971; amd. Sec. 5, Ch. 240, L. 1973; amd. Sec. 10, Ch. 52, L. 1977; R.C.M. 1947, 84-2410.

15-57-102. Repealed. Sec. 3, Ch. 658, L. 1991.
History: En. Sec. 1, Ch. 163, L. 1939; amd. Sec. 128, Ch. 516, L. 1973; amd. Sec. 6, Ch. 52, L. 1977; R.C.M. 1947, 84-2401; amd. Sec. 1, Ch. 132, L. 1979; amd. Sec. 12, Ch. 20, L. 1985; (3)En. Sec. 1, Ch. 417, L. 1991.

15-57-103. Repealed. Sec. 3, Ch. 658, L. 1991.
History: En. Sec. 2, Ch. 163, L. 1939; amd. Sec. 1, Ch. 122, L. 1955; amd. Sec. 9, Ch. 121, L. 1965; amd. Sec. 1, Ch. 160, L. 1971; amd. Sec. 1, Ch. 240, L. 1973; amd. Sec. 129, Ch. 516, L. 1973; amd. Sec. 7, Ch. 52, L. 1977; R.C.M. 1947, 84-2402.

15-57-104. Repealed. Sec. 3, Ch. 658, L. 1991.
History: En. Sec. 3, Ch. 163, L. 1939; amd. Sec. 130, Ch. 516, L. 1973; R.C.M. 1947, 84-2403.

15-57-105. Repealed. Sec. 3, Ch. 658, L. 1991.
History: En. Sec. 4, Ch. 163, L. 1939; amd. Sec. 2, Ch. 122, L. 1955; amd. Sec. 10, Ch. 121, L. 1965; amd. Sec. 2, Ch. 160, L. 1971; amd. Sec. 2, Ch. 240, L. 1973; amd. Sec. 131, Ch. 516, L. 1973; amd. Sec. 8, Ch. 52, L. 1977; amd. Sec. 1, Ch. 419, L. 1977; R.C.M. 1947, 84-2404.

15-57-106. Repealed. Sec. 3, Ch. 658, L. 1991.

History: En. Sec. 5, Ch. 163, L. 1939; amd. Sec. 11, Ch. 121, L. 1965; amd. Sec. 3, Ch. 240, L. 1973; amd. Sec. 1, Ch. 200, L. 1974; amd. Sec. 9, Ch. 52, L. 1977; R.C.M. 1947, 84-2405.

15-57-107. Repealed. Sec. 3, Ch. 658, L. 1991.

History: En. Sec. 7, Ch. 163, L. 1939; amd. Sec. 13, Ch. 121, L. 1965; amd. Sec. 4, Ch. 240, L. 1973; R.C.M. 1947, 84-2407.

15-57-108. Repealed. Sec. 3, Ch. 658, L. 1991.

History: En. Sec. 9, Ch. 163, L. 1939; R.C.M. 1947, 84-2409.

15-57-109. Repealed. Sec. 3, Ch. 658, L. 1991.

History: En. Sec. 12, Ch. 163, L. 1939; amd. Sec. 1, Ch. 266, L. 1971; amd. Sec. 6, Ch. 240, L. 1973; amd. Sec. 132, Ch. 516, L. 1973; amd. Sec. 19, Ch. 265, L. 1977; amd. Sec. 28, Ch. 518, L. 1977; R.C.M. 1947, 84-2412; amd. Sec. 1, Ch. 441, L. 1979; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 13, Ch. 79, L. 1983.

15-57-110. Repealed. Sec. 3, Ch. 658, L. 1991.

History: En. Sec. 11, Ch. 163, L. 1939; amd. Sec. 11, Ch. 52, L. 1977; R.C.M. 1947, 84-2411.

CHAPTER 58
COAL RETAILER'S LICENSE TAX
(Repealed)

Part 1 — General Provisions (Repealed)

Part 1
General Provisions
(Repealed)

15-58-101. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 1, Ch. 3, Ex. L. 1921; re-en. Sec. 2327, R.C.M. 1921; re-en. Sec. 2327, R.C.M. 1935; R.C.M. 1947, 84-1401(part).

15-58-102. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 2, Ch. 3, Ex. L. 1921; re-en. Sec. 2328, R.C.M. 1921; re-en. Sec. 2328, R.C.M. 1935; amd. Sec. 1, Ch. 125, L. 1975; R.C.M. 1947, 84-1402.

15-58-103. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 3, Ch. 3, Ex. L. 1921; re-en. Sec. 2329, R.C.M. 1921; re-en. Sec. 2329, R.C.M. 1935; amd. Sec. 48, Ch. 516, L. 1973; R.C.M. 1947, 84-1403.

15-58-104. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 5, Ch. 3, Ex. L. 1921; re-en. Sec. 2331, R.C.M. 1921; re-en. Sec. 2331, R.C.M. 1935; amd. Sec. 49, Ch. 516, L. 1973; amd. Sec. 3, Ch. 125, L. 1975; R.C.M. 1947, 84-1405.

15-58-105. Repealed. Sec. 2, Ch. 658, L. 1991.

History: (1), (3)En. Sec. 6, Ch. 3, Ex. L. 1921; re-en. Sec. 2332, R.C.M. 1921; re-en. Sec. 2332, R.C.M. 1935; amd. Sec. 50, Ch. 516, L. 1973; amd. Sec. 4, Ch. 125, L. 1975; Sec. 84-1406, R.C.M. 1947; (2)En. Sec. 4, Ch. 3, Ex. L. 1921; re-en. Sec. 2330, R.C.M. 1921; re-en. Sec. 2330, R.C.M. 1935; amd. Sec. 2, Ch. 125, L. 1975; Sec. 84-1404, R.C.M. 1947; R.C.M. 1947, 84-1404, 84-1406.

15-58-106. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 8, Ch. 3, Ex. L. 1921; re-en. Sec. 2334, R.C.M. 1921; amd. Sec. 2, Ch. 74, L. 1931; re-en. Sec. 2334, R.C.M. 1935; amd. Sec. 51, Ch. 516, L. 1973; amd. Sec. 5, Ch. 125, L. 1975; R.C.M. 1947, 84-1408; amd. Sec. 32, Ch. 439, L. 1981.

15-58-107. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. 84-1408.1 by Sec. 6, Ch. 125, L. 1975; R.C.M. 1947, 84-1408.1; amd. Sec. 33, Ch. 439, L. 1981.

15-58-108. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 17, Ch. 3, Ex. L. 1921; re-en. Sec. 2343, R.C.M. 1921; re-en. Sec. 2343, R.C.M. 1935; amd. Sec. 7, Ch. 125, L. 1975; R.C.M. 1947, 84-1417.

15-58-109. Repealed. Sec. 2, Ch. 658, L. 1991.

History: En. Sec. 15, Ch. 3, Ex. L. 1921; re-en. Sec. 2341, R.C.M. 1921; re-en. Sec. 2341, R.C.M. 1935; R.C.M. 1947, 84-1415.

15-58-110. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 23, Ch. 811, L. 1991.

15-58-111. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 2, Ch. 14, L. 1983.

15-58-112 through 15-58-120 reserved.

15-58-121. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 10, Ch. 3, Ex. L. 1921; re-en. Sec. 2336, R.C.M. 1921; re-en. Sec. 2336, R.C.M. 1935; R.C.M. 1947, 84-1410.

15-58-122. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 11, Ch. 3, Ex. L. 1921; re-en. Sec. 2337, R.C.M. 1921; re-en. Sec. 2337, R.C.M. 1935; R.C.M. 1947, 84-1411.

15-58-123. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 13, Ch. 3, Ex. L. 1921; re-en. Sec. 2339, R.C.M. 1921; re-en. Sec. 2339, R.C.M. 1935; R.C.M. 1947, 84-1413.

15-58-124. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 7, Ch. 3, Ex. L. 1921; re-en. Sec. 2333, R.C.M. 1921; re-en. Sec. 2333, R.C.M. 1935; R.C.M. 1947, 84-1407.

15-58-125. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 16, Ch. 3, Ex. L. 1921; re-en. Sec. 2342, R.C.M. 1921; re-en. Sec. 2342, R.C.M. 1935; R.C.M. 1947, 84-1416.

15-58-126. Repealed. Sec. 2, Ch. 658, L. 1991.
History: En. Sec. 1, Ch. 194, L. 1983.

CHAPTER 59
CEMENT TAXES

Part 1 — Cement and Gypsum Producers

15-59-101. Definitions.
15-59-102. License tax on producers and importers of gypsum and cement.
15-59-103. Repealed.
15-59-104. Manufacturers to keep records.
15-59-105. Quarterly statement and payment of tax.
15-59-106. Procedure to estimate tax on failure to file statement — penalty and interest.
15-59-107. Warrant for distraint.
15-59-108. Deposit of taxes.
15-59-109. License tax supplemental.
15-59-110. Duty to file statement.
15-59-111. Renumbered 15-59-121.
15-59-112. Deficiency assessment — review — penalty and interest.
15-59-113. Credit for overpayment — interest on overpayment.
15-59-114. Statute of limitations.
15-59-115 through 15-59-120 reserved.
15-59-121. Penalty for violations.
15-59-122 through 15-59-125 reserved.
15-59-126. Terminated.

Part 2 — Cement Dealers (Renumbered, Repealed, and Terminated)

Part 1
Cement and Gypsum Producers

Part Cross-References
Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

15-59-101. Definitions. (1) The word "import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of Montana of any cement, gypsum, gypsum plaster, stucco, wallboard, land plaster, or other products of cement or gypsum, as the same are defined in this section, shipped or transported into this state from point of origin without this state.

(2) The words "products of cement or gypsum", as used in 15-59-102, shall, in addition to the articles herein specifically enumerated, include all manufactured products into which gypsum enters as a component part to the extent of not less than 50% by weight. No double taxation of either cement, gypsum, or the products thereof is imposed by this part.

History: (1)En. Sec. 2, Ch. 15, Ex. L. 1921; re-en. Sec. 2357, R.C.M. 1921; amd. Sec. 1, Ch. 127, L. 1925; amd. Sec. 1, Ch. 166, L. 1931; re-en. Sec. 2357, R.C.M. 1935; amd. Sec. 1, Ch. 192, L. 1945; amd. Sec. 37, Ch. 516, L. 1973; amd. Sec. 1, Ch. 108, L. 1977; Sec. 84-1202, R.C.M. 1947; (2)En. Sec. 2, Ch. 166, L. 1931; re-en. Sec. 2357.1, R.C.M. 1935; amd. Sec. 2, Ch. 192, L. 1945; Sec. 84-1203, R.C.M. 1947; R.C.M. 1947, 84-1202(2), 84-1203.

15-59-102. License tax on producers and importers of gypsum and cement. Every person engaged in or carrying on the business in the state of producing or manufacturing cement, gypsum, gypsum plaster, stucco, wallboard, land plaster, or other products of cement or gypsum and any person who imports into this state any such products for sale or use must pay to the department of revenue for the use of the state a license tax for engaging in and carrying on such business in the state in an amount equal to the following sums:

(1) for each ton of cement produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove enumerated or imported by such person into this state for sale or use, 22 cents;

(2) for each ton of gypsum produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove named or imported by such person into this state for such sale or use, 5 cents.

History: En. Sec. 2, Ch. 15, Ex. L. 1921; re-en. Sec. 2357, R.C.M. 1921; amd. Sec. 1, Ch. 127, L. 1925; amd. Sec. 1, Ch. 166, L. 1931; re-en. Sec. 2357, R.C.M. 1935; amd. Sec. 1, Ch. 192, L. 1945; amd. Sec. 37, Ch. 516, L. 1973; amd. Sec. 1, Ch. 108, L. 1977; R.C.M. 1947, 84-1202(1).

15-59-103. Repealed. Sec. 4, Ch. 334, L. 1981.

History: En. Sec. 4, Ch. 15, Ex. L. 1921; re-en. Sec. 2359, R.C.M. 1921; re-en. Sec. 2359, R.C.M. 1935; amd. Sec. 4, Ch. 192, L. 1945; amd. Sec. 39, Ch. 516, L. 1973; R.C.M. 1947, 84-1205.

15-59-104. Manufacturers to keep records. Each person subject to 15-59-102 shall keep a record in the form required by the department of all cement, gypsum, gypsum plaster, stucco, wallboard, land plaster, or other products of cement or gypsum manufactured or produced by the person in this state. The records must at all times during business hours be subject to inspection by the department.

History: En. Sec. 5, Ch. 15, Ex. L. 1921; re-en. Sec. 2360, R.C.M. 1921; re-en. Sec. 2360, R.C.M. 1935; amd. Sec. 5, Ch. 192, L. 1945; amd. Sec. 40, Ch. 516, L. 1973; R.C.M. 1947, 84-1206; amd. Sec. 125, Ch. 27, Sp. L. November 1993.

15-59-105. Quarterly statement and payment of tax. (1) Each person shall, within 30 days after the end of each quarter, make out on forms prescribed by the department of revenue and deliver to the department a statement showing the total number of tons of cement or gypsum produced by the person or used by the person in the manufacture of the respective articles or products enumerated in 15-59-101(2) and 15-59-102 or imported by the person into the state of Montana for sale or use during each month of the quarter and during the whole quarter and other information that the department may require, together with the total amount due to the state as license taxes for the quarter.

(2) The annual license tax as imposed by 15-59-102 must be paid in quarterly installments for the quarters ending March 31, June 30, September 30, and December 31 of each year, and the amount of the license tax due for each quarter must be paid to the department within 30 days after the end of each quarter and at the same time the statement is delivered to the department.

(3) Any person engaged in carrying on a cement production business at more than one place or operating more than one factory or plant in this state may include all locations in one statement.

(4) The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown.

History: (1), (3), (4)En. Sec. 6, Ch. 15, Ex. L. 1921; re-en. Sec. 2361, R.C.M. 1921; re-en. Sec. 2361, R.C.M. 1935; amd. Sec. 6, Ch. 192, L. 1945; amd. Sec. 41, Ch. 516, L. 1973; amd. Sec. 2, Ch. 108, L. 1977; Sec. 84-1207, R.C.M. 1947; (2)En. Sec. 3, Ch. 15, Ex. L. 1921; re-en. Sec. 2358, R.C.M. 1921; re-en. Sec. 2358, R.C.M. 1935; amd. Sec. 3, Ch. 192, L. 1945; amd. Sec. 38, Ch. 516, L. 1973; Sec. 84-1204, R.C.M. 1947; R.C.M. 1947, 84-1204, 84-1207; amd. Sec. 183, Ch. 56, L. 2009.

15-59-106. Procedure to estimate tax on failure to file statement — penalty and interest. (1) If a person fails to file any statement required by 15-59-105 within the time required or fails to pay the tax required by this part on or before the date the payment is due, the department shall, immediately after the time has expired, determine the amounts of the respective articles or products enumerated in 15-59-101(2) and 15-59-102 manufactured or produced by the person within this state or imported by the person into the state during the quarter and during each month of the quarter and shall determine and fix the amount of the license taxes due to the state from the person for the quarter.

(2) The department shall add to the amount of delinquent license taxes penalty and interest as provided in 15-1-216.

(3) The department shall mail to the person required to file a quarterly statement and pay any license tax a letter setting forth the amount of license tax, penalty, and interest due, and the letter must contain a statement that if payment is not made, a warrant for distraint may be filed.

(4) A penalty imposed by 15-1-216 may be waived by the department pursuant to 15-1-206.

History: En. Sec. 8, Ch. 15, Ex. L. 1921; re-en. Sec. 2363, R.C.M. 1921; re-en. Sec. 2363, R.C.M. 1935; amd. Sec. 8, Ch. 192, L. 1945; amd. Sec. 42, Ch. 516, L. 1973; amd. Sec. 3, Ch. 108, L. 1977; R.C.M. 1947, 84-1209; amd. Sec. 34, Ch. 439, L. 1981; amd. Sec. 40, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-59-107. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-1213 by Sec. 4, Ch. 108, L. 1977; R.C.M. 1947, 84-1213; amd. Sec. 35, Ch. 439, L. 1981.

15-59-108. Deposit of taxes. All license taxes collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be deposited to the credit of the general fund of the state.

History: En. Sec. 9, Ch. 15, Ex. L. 1921; re-en. Sec. 2364, R.C.M. 1921; re-en. Sec. 2364, R.C.M. 1935; R.C.M. 1947, 84-1210; amd. Sec. 13, Ch. 455, L. 1993; amd. Sec. 17, Ch. 18, L. 1995; amd. Sec. 9, Ch. 475, L. 2007.

15-59-109. License tax supplemental. The license taxes herein provided for shall be in addition to all taxes and fees now required to be paid by the persons subject to the provisions of this part.

History: En. Sec. 11, Ch. 15, Ex. L. 1921; re-en. Sec. 2366, R.C.M. 1921; re-en. Sec. 2366, R.C.M. 1935; R.C.M. 1947, 84-1212.

15-59-110. Duty to file statement. It shall be unlawful for any person to fail, neglect, or refuse to file any statement or certificate required by 15-59-105 in the manner or within the time herein required or to make such statement false in any particular.

History: En. Sec. 7, Ch. 15, Ex. L. 1921; re-en. Sec. 2362, R.C.M. 1921; re-en. Sec. 2362, R.C.M. 1935; amd. Sec. 7, Ch. 192, L. 1945; R.C.M. 1947, 84-1208.

15-59-111. Renumbered 15-59-121. Code Commissioner, 1983.

15-59-112. Deficiency assessment — review — penalty and interest. (1) If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, as provided in 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 24, Ch. 811, L. 1991; amd. Sec. 41, Ch. 427, L. 1999; amd. Sec. 33, Ch. 594, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-59-113. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest

then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law may not be considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983; amd. Sec. 42, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-59-114. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

15-59-115 through 15-59-120 reserved.

15-59-121. Penalty for violations. Any violation of the provisions of 15-59-101, 15-59-102, 15-59-104 through 15-59-106, 15-59-110, 15-59-112, or 15-59-113 shall be deemed a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding 6 months or by both such fine and imprisonment.

History: En. Sec. 10, Ch. 15, Ex. L. 1921; re-en. Sec. 2365, R.C.M. 1921; re-en. Sec. 2365, R.C.M. 1935; amd. Sec. 9, Ch. 192, L. 1945; R.C.M. 1947, 84-1211; MCA 1981, 15-59-111; redes. 15-59-121 by Code Commissioner, 1983; amd. Sec. 52, Ch. 370, L. 1987.

15-59-122 through 15-59-125 reserved.

15-59-126. Terminated. Sec. 39(4), Ch. 15, Sp. L. July 1992.

History: En. Sec. 13, Ch. 15, Sp. L. July 1992.

Part 2
Cement Dealers
(Renumbered, Repealed, and Terminated)

15-59-201. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 2, Ch. 16, Ex. L. 1921; re-en. Sec. 2368, R.C.M. 1921; amd. Sec. 2, Ch. 127, L. 1925; re-en. Sec. 2368, R.C.M. 1935; amd. Sec. 1, Ch. 127, L. 1975; amd. Sec. 1, Ch. 106, L. 1977; R.C.M. 1947, 84-1102.

15-59-202. Repealed. Sec. 4, Ch. 334, L. 1981.

History: En. Sec. 3, Ch. 16, Ex. L. 1921; re-en. Sec. 2369, R.C.M. 1921; re-en. Sec. 2369, R.C.M. 1935; amd. Sec. 33, Ch. 516, L. 1973; R.C.M. 1947, 84-1103.

15-59-203. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 5, Ch. 16, Ex. L. 1921; re-en. Sec. 2371, R.C.M. 1921; re-en. Sec. 2371, R.C.M. 1935; amd. Sec. 34, Ch. 516, L. 1973; R.C.M. 1947, 84-1105; amd. Sec. 126, Ch. 27, Sp. L. November 1993.

15-59-204. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: (1), (3)En. Sec. 6, Ch. 16, Ex. L. 1921; re-en. Sec. 2372, R.C.M. 1921; re-en. Sec. 2372, R.C.M. 1935; amd. Sec. 35, Ch. 516, L. 1973; amd. Sec. 3, Ch. 127, L. 1975; Sec. 84-1106, R.C.M. 1947; (2)En. Sec. 4, Ch. 16, Ex. L. 1921; re-en. Sec. 2370, R.C.M. 1921; re-en. Sec. 2370, R.C.M. 1935; amd. Sec. 2, Ch. 127, L. 1975; amd. Sec. 2, Ch. 106, L. 1977; Sec. 84-1104, R.C.M. 1947; R.C.M. 1947, 84-1104, 84-1106.

15-59-205. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 8, Ch. 16, Ex. L. 1921; re-en. Sec. 2374, R.C.M. 1921; re-en. Sec. 2374, R.C.M. 1935; amd. Sec. 36, Ch. 516, L. 1973; amd. Sec. 4, Ch. 127, L. 1975; R.C.M. 1947, 84-1108; amd. Sec. 36, Ch. 439, L. 1981.

15-59-206. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. 84-1108.1 by Sec. 5, Ch. 127, L. 1975; R.C.M. 1947, 84-1108.1; amd. Sec. 37, Ch. 439, L. 1981.

15-59-207. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 10, Ch. 16, Ex. L. 1921; re-en. Sec. 2376, R.C.M. 1921; re-en. Sec. 2376, R.C.M. 1935; R.C.M. 1947, 84-1110.

15-59-208. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 12, Ch. 16, Ex. L. 1921; re-en. Sec. 2378, R.C.M. 1921; re-en. Sec. 2378, R.C.M. 1935; R.C.M. 1947, 84-1112; amd. Sec. 14, Ch. 455, L. 1993; amd. Sec. 18, Ch. 18, L. 1995.

15-59-209. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 14, Ch. 16, Ex. L. 1921; re-en. Sec. 2380, R.C.M. 1921; re-en. Sec. 2380, R.C.M. 1935; R.C.M. 1947, 84-1114.

15-59-210. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 7, Ch. 16, Ex. L. 1921; re-en. Sec. 2373, R.C.M. 1921; re-en. Sec. 2373, R.C.M. 1935; R.C.M. 1947, 84-1107.

15-59-211. Renumbered 15-59-221. Code Commissioner, 1983.

15-59-212. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 1, Ch. 14, L. 1983; amd. Sec. 25, Ch. 811, L. 1991.

15-59-213. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 2, Ch. 14, L. 1983.

15-59-214. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 1, Ch. 194, L. 1983.

15-59-215 through 15-59-220 reserved.

15-59-221. Repealed. Sec. 3(2), Ch. 65, L. 1997.

History: En. Sec. 13, Ch. 16, Ex. L. 1921; re-en. Sec. 2379, R.C.M. 1921; re-en. Sec. 2379, R.C.M. 1935; R.C.M. 1947, 84-1113; MCA 1981, 15-59-211; redes. 15-59-221 by Code Commissioner, 1983.

15-59-222 through 15-59-225 reserved.

15-59-226. Terminated. Sec. 39(4), Ch. 15, Sp. L. July 1992.

History: En. Sec. 14, Ch. 15, Sp. L. July 1992.

CHAPTER 60
NURSING FACILITY UTILIZATION FEE

Part 1 — General Provisions

15-60-101. Definitions.
15-60-102. Utilization fee for bed days in nursing facilities.
15-60-103. Relation to other taxes and fees.
15-60-104. Rulemaking authority.

Part 2 — Collection of Fee

15-60-201. Reporting and collection of fee.
15-60-202. Audit — records.
15-60-203. Periods of limitation.
15-60-204. Penalty and interest for delinquent fees — waiver.
15-60-205. Estimated fee on failure to file.
15-60-206. Deficiency assessment — penalty and interest — hearing.
15-60-207. Closing agreements.
15-60-208. Credit for overpayment — interest on overpayment.
15-60-209. Warrant for distraint.
15-60-210. Disposition of fee.
15-60-211. State special revenue account.

Chapter Compiler's Comments

Contingent Voidness: Section 18, Ch. 746, L. 1991, provided: "(1) If federal law or policy is amended to allow a nursing facility to bill a person receiving nursing care for which the facility is being reimbursed by medicare or medicaid for the utilization fee provided in [section 2] [15-60-102], [this act] is void as of the effective date of the change in federal law or policy.

(2) If federal law or policy is amended so that the utilization fees collected pursuant to [this act] may not be considered as the state's share in claiming federal financial participation under the medicaid program, [this act] is void as of the effective date of the change in federal law or policy.

(3) If the federal government refuses to participate in or denies approval of any plan for medicaid payments to nursing facilities on grounds that it considers the payments to be reimbursement to facilities for payment of the utilization fees, [this act] is void as of the date of receipt by the department of social and rehabilitation services of notice of an official determination of such refusal or denial.

(4) If [this act] becomes void under the provisions of this section, all fees received or collected by the department prior to the date upon which the act becomes void must be deposited in accordance with [section 13] [15-60-210] and a person or party may not receive a refund of any fees received or collected by the department prior to the date upon which [this act] becomes void."

Part 1
General Provisions

15-60-101. *(Temporary)* **Definitions.** For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Bed day" means each 24-hour period that a resident of a nursing facility is present in the facility and receiving skilled nursing care or intermediate nursing care or in which a bed is held for a resident while the resident is on temporary leave from the facility.

(b) The term includes all periods of 24 hours described in subsection (1)(a), regardless of the source of payment. The term also includes the day of a resident's admission to a nursing facility and the day of the resident's death, even though the resident is present for less than a 24-hour period on these days.

(2) "Calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31.

(3) "Department" means the department of revenue.

(4) "Nursing facility" or "facility" means a health care facility licensed by the department of public health and human services as a nursing facility to provide skilled nursing care or intermediate nursing care. The term includes:

(a) nursing facilities, whether they are:

(i) operated as nonprofit or for-profit facilities;

(ii) freestanding or part of another health care facility; or

(iii) publicly or privately operated; and

(b) the Montana mental health nursing care center provided for in 53-21-411.

(5) "Report" means the report of bed days required in 15-60-201.

(6) "Skilled nursing care" and "intermediate nursing care" have the same meaning as those terms are defined in 50-5-101.

(7) "Utilization fee" or "fee" means the fee required to be paid for each bed day in a nursing facility, as provided in 15-60-102. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 1, Ch. 746, L. 1991; amd. Sec. 1, Ch. 558, L. 1993; amd. Sec. 44, Ch. 418, L. 1995; amd. Sec. 49, Ch. 546, L. 1995; amd. Sec. 1, Ch. 532, L. 2003.

Compiler's Comments

Contingent Voidness: Section 6, Ch. 532, L. 2003, provided: "If any of the contingencies contained in section 18, Chapter 746, Laws of 1991, occur, then [this act] is void."

15-60-102. *(Temporary)* **Utilization fee for bed days in nursing facilities.** (1) A nursing facility in the state shall pay to the department a utilization fee for each bed day in the facility in the following amounts:

(a) the amount of $2.80, which must be applied to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount;

(b) the amount of $5.50 to be used to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount as provided in 15-60-211;

(c) in fiscal year 2018, an additional amount of $3 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year 2017 base as provided in 15-60-211; and

(d) on and after July 1, 2018, an additional amount of $7 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year 2017 base as provided in 15-60-211.

(2) The fees collected must be deposited as follows:

(a) the amounts collected as provided in subsection (1)(a), in the general fund; and

(b) the amounts collected as provided in subsections (1)(b) through (1)(d), in the account in the state special revenue fund as provided in 15-60-211.

(3) A nursing facility may not place a fee created in this section on a patient's bill. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 2, Ch. 746, L. 1991; amd. Sec. 2, Ch. 558, L. 1993; amd. Sec. 8, Ch. 509, L. 1995; amd. Sec. 1, Ch. 541, L. 2003; amd. Sec. 1, Ch. 523, L. 2005; amd. Sec. 1, Ch. 347, L. 2017.

15-60-103. *(Temporary)* **Relation to other taxes and fees.** The utilization fee imposed under 15-60-102 is in addition to any other taxes and fees required by law to be paid by nursing facilities. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 14, Ch. 746, L. 1991.

15-60-104. *(Temporary)* **Rulemaking authority.** The department of revenue may adopt rules necessary to implement and administer this chapter. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 15, Ch. 746, L. 1991.

Part 2
Collection of Fee

15-60-201. *(Temporary)* **Reporting and collection of fee.** (1) A nursing facility shall report to the department of revenue, following the end of each calendar quarter, the number of bed days in the facility during the quarter. The report must be in the form prescribed by the department and is due on or before the last day of the month following the close of each calendar quarter. The report must be accompanied by a payment in an amount equal to the fee required to be paid under 15-60-102.

(2) The department of public health and human services shall provide the department at the end of each calendar quarter with a list of facilities as defined in 15-60-101(4). *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 3, Ch. 746, L. 1991; amd. Sec. 45, Ch. 418, L. 1995; amd. Sec. 50, Ch. 546, L. 1995.

15-60-202. *(Temporary)* **Audit — records.** (1) The department of revenue may audit the records and other documents of any nursing facility to ensure that the proper utilization fee has been collected.

(2) The department may require the facility to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A facility shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of bed days in the facility subject to the utilization fee. The facility shall maintain these records for a period of at least 5 years from the date the report is due. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 4, Ch. 746, L. 1991.

15-60-203. *(Temporary)* **Periods of limitation.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the quarter for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fee, the facility consents in writing to an assessment after the 5-year period, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the facility files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the facility has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund allowed in the event no claim is filed is automatically extended. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 5, Ch. 746, L. 1991.

15-60-204. *(Temporary)* **Penalty and interest for delinquent fees — waiver.** If the fee for any facility is not paid on or before the due date of the report as provided in 15-60-201(1), penalty and interest, as provided in 15-1-216, must be added to the fee. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 6, Ch. 746, L. 1991; amd. Sec. 43, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-60-205. *(Temporary)* **Estimated fee on failure to file.** For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of bed day use of any facility where information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 7, Ch. 746, L. 1991; amd. Sec. 19, Ch. 746, L. 1991.

15-60-206. *(Temporary)* **Deficiency assessment — penalty and interest — hearing.** (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the facility may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If a protest is not filed, the amount of the

additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the facility has requested, shall grant the facility an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the facility for payment. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 8, Ch. 746, L. 1991; amd. Sec. 34, Ch. 594, L. 2005.

15-60-207. *(Temporary)* **Closing agreements.** (1) The director of the department or any person authorized in writing by the director is authorized to enter into an agreement with any facility relating to the liability of the facility in respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 9, Ch. 746, L. 1991; amd. Sec. 184, Ch. 56, L. 2009.

15-60-208. *(Temporary)* **Credit for overpayment — interest on overpayment.** (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the facility and the balance must be refunded to the facility or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, due from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the facility to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than $1.

(4) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 10, Ch. 746, L. 1991; amd. Sec. 44, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-60-209. *(Temporary)* **Warrant for distraint.** If the utilization fee is not paid when due, the department of revenue may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 12, Ch. 746, L. 1991.

15-60-210. *(Temporary)* **Disposition of fee.** (1) Except as provided in subsection (2), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited in the general fund.

(2) Utilization fees, including penalties and interest, collected from the Montana mental health nursing care center must be allocated as follows:

(a) 30% to the state general fund; and

(b) 70% to the prevention and stabilization account in the state special revenue fund established pursuant to 53-6-1101 to the credit of the department of public health and human services to finance, administer, and provide health and human services. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)*

History: En. Sec. 13, Ch. 746, L. 1991; amd. Sec. 15, Ch. 455, L. 1993; amd. Sec. 3, Ch. 558, L. 1993; amd. Sec. 19, Ch. 18, L. 1995; amd. Sec. 9, Ch. 509, L. 1995; amd. Sec. 2, Ch. 532, L. 2003; amd. Sec. 10, Ch. 475, L. 2007.

Compiler's Comments

Contingent Voidness: Section 6, Ch. 532, L. 2003, provided: "If any of the contingencies contained in section 18, Chapter 746, Laws of 1991, occur, then [this act] is void."

15-60-211. State special revenue account. (1) There is a nursing facility utilization fee account in the state special revenue fund as provided in 17-2-102.

(2) (a) All money collected under 15-60-102(1)(b) through (1)(d) must be deposited in this account.

(b) Money collected under 15-60-102(1)(b) must be used by the department of public health and human services for the purpose of maintaining the average price paid for medicaid nursing facility services at the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes.

(c) All money collected under 15-60-102(1)(c) and (1)(d) must be used by the department of public health and human services for the purpose of:

(i) increasing the average price paid for medicaid nursing facility services above the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes; and

(ii) in each year of the biennium beginning July 1, 2017, providing a wage increase of 50 cents per hour to certified nursing assistants working in nursing facilities, provided in increments of 25 cents per hour every 6 months.

(3) Money remaining in this account at the end of a fiscal year may not be expended or transferred for any other purpose and is subject to appropriation by a subsequent legislature for purposes consistent with subsection (2).

History: En. Sec. 2, Ch. 541, L. 2003; amd. Sec. 2, Ch. 347, L. 2017.

CHAPTER 61
MEDICAL CARE SAVINGS ACCOUNT

Part 1 — General Provisions

15-61-101. Short title.
15-61-102. Definitions.

Part 2 — Medical Care Savings Account — Administration

15-61-201. Establishment of account.
15-61-202. Tax exemption — conditions.
15-61-203. Withdrawal of funds from account for purposes other than eligible medical expenses.
15-61-204. Administration of account.
15-61-205. False claims prohibited — penalty.

Part 1
General Provisions

15-61-101. Short title. This chapter may be cited as the "Montana Medical Care Savings Account Act of 1995".

History: En. Sec. 1, Ch. 295, L. 1995.

15-61-102. Definitions. As used in this chapter, unless it clearly appears otherwise, the following definitions apply:

(1) "Account administrator" means:

(a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

(b) a health care insurer as defined in 33-22-125;

(c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

(d) an employer if the employer has a self-insured health plan under ERISA;

(e) the account holder or an employee for whose benefit the account in question is established;

(f) a broker, insurance producer, or investment adviser regulated by the commissioner of insurance;

(g) an attorney licensed to practice law in this state;

(h) a person who is an enrolled agent allowed to practice before the United States internal revenue service.

(2) "Account holder" means an individual who is a resident of this state and who establishes a medical care savings account or for whose benefit the account is established.

(3) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers, as published by the bureau of labor statistics of the United States department of labor.

(4) "Dependent" means the spouse of the employee or account holder or a child of the employee or account holder if the child is:

(a) under 23 years of age and enrolled as a full-time student at an accredited college or university or is under 19 years of age;

(b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

(5) "Eligible medical expense" means:

(a) an expense paid by the employee or account holder for medical care defined by 26 U.S.C. 213(d);

(b) an expense for long-term care, including long-term care insurance or a long-term care annuity;

(c) a family leave expense;

(d) any direct fee, as defined in 50-4-106, associated with a direct patient care agreement; and

(e) any expense paid by a member to a health care sharing ministry that meets the requirements of 50-4-111.

(6) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. The term includes a self-employed individual.

(7) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(8) "Family leave expense" means:

(a) an expense, calculated monthly, approximating wages lost while caring for an immediate family member for the purposes allowed under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601, et seq., and 29 CFR, part 825. A family leave expense is calculated by multiplying the hourly wage that the caregiver would have been paid by the number of hours that would typically be spent working but were instead spent caring for an immediate family member. The hourly wage for a person paid a salary is the gross annual wage divided by 2,087.

(b) a premium paid for family leave insurance.

(9) "Immediate family member" means a parent, spouse, or child.

(10) "Medical care savings account" or "account" means an account established with an account administrator in this state pursuant to 15-61-201.

History: **En. Sec. 2, Ch. 295, L. 1995; amd. Sec. 1, Ch. 296, L. 1997; amd. Sec. 38, Ch. 51, L. 1999; amd. Sec. 19, Ch. 130, L. 2005; amd. Sec. 3, Ch. 169, L. 2015; amd. Sec. 2, Ch. 152, L. 2017; amd. Sec. 7, Ch. 701, L. 2023.**

Part 2
Medical Care Savings Account — Administration

15-61-201. Establishment of account. (1) An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may establish a medical care savings account for an employee of the employer or for a dependent of the employee.

(2) An individual who is a resident of this state may establish a medical care savings account for that individual or for a dependent of the individual.

(3) Before making any contributions to an employee's account, an employer shall inform an employee in writing of the state and federal tax status of contributions made pursuant to this chapter.

(4) Upon agreement between an employer and an employee, an employee may have the employer contribute to the employee's medical care savings account, to a health insurance policy or program for the employee, or to both the account and the policy or program.

History: En. Sec. 3, Ch. 295, L. 1995.

15-61-202. Tax exemption — conditions. (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an account and all interest or other income on the principal may be excluded from the Montana taxable income of the employee or account holder and is exempt from taxation, in accordance with 15-30-2120, as long as the principal and interest or other income is contained within the account, distributed to an immediate family member as provided in subsection (5), or withdrawn only for payment of eligible medical expenses or for paying the expenses of administering the account. Any part of the principal or income, or both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than an eligible medical expense or for paying the expenses of administering the account.

(2) (a) An employee or account holder may annually contribute not more than:

(i) $4,500 in tax year 2024; and

(ii) an amount determined for each subsequent tax year by multiplying the amount in subsection (2)(a)(i) by an inflation factor determined by dividing the consumer price index fund for June of the previous tax year by the consumer price index for June 2023 and rounding the resulting figure to the nearest $100 increment.

(b) There is no limitation on the amount of funds and interest or other income on those funds that may be retained tax-free within an account.

(3) The transfer of money in an account owned by one employee or account holder to the account of another employee or account holder who is an immediate family member of the first employee or account holder does not subject either employee or account holder to tax liability under this section. Amounts contained within the account of the receiving employee or account holder are subject to the requirements and limitations provided in this section.

(4) The employee or account holder who establishes the account is the owner of the account. An employee or account holder may withdraw money in an account and deposit the money in another account with a different or with the same account administrator without incurring tax liability.

(5) Within 30 days of being furnished proof of the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-223. An immediate family member who receives the distribution provided for in this subsection becomes the account holder and may:

(a) within 1 year of the death of the employee or account holder from which the account was inherited, withdraw funds for eligible medical expenses incurred by the deceased; and

(b) contribute to the account, retain money in the account tax-free, and withdraw funds from the account as provided in this chapter.

History: En. Sec. 4, Ch. 295, L. 1995; amd. Sec. 1, Ch. 429, L. 1999; amd. Sec. 3, Ch. 152, L. 2017; amd. Sec. 2, Ch. 298, L. 2017; amd. Sec. 34, Ch. 503, L. 2021; amd. Sec. 8, Ch. 701, L. 2023.

15-61-203. Withdrawal of funds from account for purposes other than eligible medical expenses. (1) An employee or account holder may withdraw money from the individual's medical care savings account for any purpose other than an eligible medical expense or for paying the expenses of administering the account only on the last business day of the account administrator's business year. Money withdrawn from an account pursuant to this subsection that had been excluded from taxation must be taxed as ordinary income of the employee or account holder.

(2) There is a penalty equal to 10% of the amount of a withdrawal for a withdrawal other than for eligible medical expenses or for expenses of administering the account or other than on the last business day of the account administrator's business year. The administrator may withhold the penalty from the amount of the withdrawal and, on behalf of the employee or account holder, pay the penalty to the department. Payments made to the department pursuant to this section must be deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or account holder if it had been excluded from taxation.

(3) For the purposes of this section, "last business day of the account administrator's business year", as applied to an account administrator who is also the account holder or an employee, means the last weekday in December.

History: En. Sec. 5, Ch. 295, L. 1995; amd. Sec. 2, Ch. 296, L. 1997; amd. Sec. 4, Ch. 152, L. 2017; amd. Sec. 35, Ch. 503, L. 2021.

15-61-204. Administration of account. (1) (a) An account administrator shall administer the medical care savings account from which the payment of claims is made and, except as provided in subsection (1)(b), has a fiduciary duty to the person for whose benefit the account is administered.

(b) Except for reporting and remitting of penalties to the department of revenue, a financial institution shall administer a medical care savings account and has the same rights and duties pertaining to the account as the person for whose benefit the account is administered. A financial institution may provide investment options to each employee and account holder, including a regular deposit account, share account, stock account, bond account, mutual fund account, or a combination of these accounts. An investment option that is allowable for a health savings account under 26 U.S.C. 223 automatically qualifies. Notwithstanding any other provision of this chapter, a financial institution is not responsible for:

(i) losses that are based on an investment option that is selected by an employee or account holder; and

(ii) determining whether a medical expense is eligible or nonreimbursable or for the use or application of funds if the account holder attests that withdrawals are for eligible and nonreimbursable medical expenses.

(2) Not more than 30 days after an account administrator begins to administer an account, the account administrator shall notify in writing each employee and account holder on whose behalf the account administrator administers an account of the date of the last business day of the account administrator's business year.

(3) An account administrator may use funds held in a medical care savings account only for the purpose of paying eligible medical expenses or for paying the expenses of administering the account. Funds held in a medical care savings account may not be used to pay medical expenses or for a long-term care insurance policy or annuity that is otherwise reimbursable, including medical expenses payable pursuant to an automobile insurance policy, workers' compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract.

(4) The employee or account holder may submit documentation of eligible medical expenses paid by the employee or account holder in the tax year to the account administrator, and the account administrator shall reimburse the employee or account holder from the employee's or account holder's account for eligible medical expenses. The burden of proving that a withdrawal from a medical care savings account was made for an eligible medical expense is upon the account holder and not upon the account administrator or the employer of the account holder.

(5) The employee or account holder may submit documentation of the purchase of long-term care insurance or a long-term care annuity for the employee or account holder or a dependent of the employee or account holder to the account administrator, and the account

administrator shall reimburse the employee or account holder from the employee's or account holder's account for payments made for the purchase of the insurance or annuity. The account administrator may also provide for a system of automatic withdrawals from the account for the payment of long-term care insurance premiums or an annuity.

(6) The employee or account holder must annually report to the department the starting balance and ending balance of a medical care savings account.

(7) If an employer makes contributions to a medical care savings account on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceeds the amount in the employee's medical care savings account at the time that the expense is incurred if the employee agrees to repay the advance from future installments or when the employee ceases employment with the employer.

(8) In the case of an account administrator who is also the account holder or an employee:

(a) notice by the account administrator to the account holder pursuant to subsection (2) is not required;

(b) the account administrator may not use funds held in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution or other holder of the account;

(c) documentation of eligible medical expenses must be maintained but is not required to be submitted to the account administrator;

(d) contributions to a medical care savings account must be established in a separate account and be segregated from other funds;

(e) the account holder is subject to the same yearend reporting requirements as all other account administrators; and

(f) the account holder is required to forward the 10% penalty on funds withdrawn for noneligible medical expenses to the state.

History: En. Sec. 6, Ch. 295, L. 1995; amd. Sec. 3, Ch. 296, L. 1997; amd. Sec. 2, Ch. 429, L. 1999; amd. Sec. 5, Ch. 152, L. 2017; amd. Sec. 1, Ch. 328, L. 2021.

15-61-205. False claims prohibited — penalty. (1) A person may not knowingly prepare or cause to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an account.

(2) A person who violates subsection (1) by preparing or causing the preparation of a false claim, receipt, statement, or billing in an amount not exceeding $300 is guilty of theft and upon conviction shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined $1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(3) A person who violates subsection (1) by preparing or causing the preparation of a false claim, receipt, statement, or billing in an amount of $300 or more is guilty of theft and upon conviction shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the amount withdrawn from an account in violation of this section.

History: En. Sec. 7, Ch. 295, L. 1995.

CHAPTER 62
FAMILY EDUCATION SAVINGS ACT

Part 1 — General Provisions

15-62-101. Short title.
15-62-102. Family education savings program established — legislative intent — purpose.
15-62-103. Definitions.

Part 2 — Family Education Savings Program Account — Administration

15-62-201. Program requirements — establishment of account — qualified and nonqualified withdrawal — penalties.
15-62-202. Changes in designated beneficiary.

15-62-203. Selection of financial institution as program manager — contract — termination.
15-62-204. Repealed.
15-62-205. Scholarships and financial aid provisions — exceptions.
15-62-206. Limitations.
15-62-207. Deductions for contributions.
15-62-208. Tax on certain withdrawals of deductible contributions.
15-62-209. Access to records.
15-62-210. Exemption from claims of creditors.

Part 3 — Family Education Savings Trust

15-62-301. Family education savings trust.
15-62-302. Repealed.

Chapter Cross-References
Family Education Savings Program Oversight Committee, 20-25-901.

Part 1
General Provisions

15-62-101. Short title. This chapter may be cited as the "Family Education Savings Act".
History: En. Sec. 1, Ch. 540, L. 1997.

15-62-102. Family education savings program established — legislative intent — purpose. (1) There is a family education savings program administered by the board of regents of higher education. The program may consist of one or more qualified tuition programs at the discretion of the board.

(2) It is the intent of the legislature to establish the Family Education Savings Act in recognition that the general welfare and well-being of the state of Montana are directly related to the educational levels and skills of its citizens. A vital and valid public purpose of the state of Montana is served by the establishment and implementation of a program that will encourage and make possible the attainment of an accessible, affordable education by the greatest number of citizens through a savings program.
History: En. Sec. 2, Ch. 540, L. 1997; amd. Sec. 2, Ch. 349, L. 2021.

15-62-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Account" means an individual account established under this chapter.

(2) "Account owner" means the person who enters into a participation agreement and establishes an account on behalf of a designated beneficiary.

(3) "Board" means the board of regents of higher education established by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(4) "Committee" means the family education savings program oversight committee established in 20-25-901.

(5) "Contributor" means a person who makes a contribution to an account for the benefit of a designated beneficiary.

(6) "Designated beneficiary" means, with respect to an account, the person designated at the time that the account is opened as the person whose education expenses are expected to be paid from the account or if this person is replaced in accordance with 15-62-202, the individual replacing the former designated beneficiary.

(7) "Education expense" means expenses for tuition, fees, books, supplies, equipment required for an education program, principal or interest on any qualified education loan, and any other typical education expense associated with an education program up to the maximum amount allowable under section 529 of the Internal Revenue Code, 26 U.S.C. 529, as amended.

(8) "Financial institution" means any bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment company, or other similar entity that is authorized to do business in this state.

(9) "Higher education institution" means an eligible educational institution as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(10) "Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(11) "Member of the family" means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(12) "Nonqualified withdrawal" means a withdrawal from an account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in section 135(d)(1)(B) or (d)(1)(C) of the Internal Revenue Code, 26 U.S.C. 135(d)(1)(B) or (d)(1)(C), and that is received by the designated beneficiary; or

(d) a rollover or change of designated beneficiary described in 15-62-202.

(13) "Participation agreement" means an agreement between the board, as trustee and as administrator of the program, and the account owner that creates a trust interest in the trust and provides for participation in the program.

(14) "Program" means the family education savings program established pursuant to 15-62-201. The program must be structured to permit the long-term accumulation of savings that can be used to finance all or a share of the costs of education.

(15) "Qualified education expenses" means any education expense permitted by section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(16) "Qualified tuition program" means a qualified tuition program as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(17) "Qualified withdrawal" means:

(a) a withdrawal from an account to pay the qualified education expenses of the designated beneficiary of the account; or

(b) a special rollover from an account to a Roth IRA as provided for in section 529(c)(3)(E) of the Internal Revenue Code, 26 U.S.C. 529(c)(3)(E).

(18) "Trust" means the family education savings trust established by 15-62-301.

(19) "Trust interest" means an account owner's interest in the trust created by a participation agreement and held for the benefit of a designated beneficiary.

(20) "Trustee" means the board in its capacity as trustee of the trust.

History: En. Sec. 3, Ch. 540, L. 1997; amd. Sec. 5, Ch. 468, L. 2001; amd. Sec. 2, Ch. 566, L. 2003; amd. Sec. 3, Ch. 549, L. 2005; amd. Sec. 3, Ch. 108, L. 2019; amd. Sec. 3, Ch. 349, L. 2021; amd. Sec. 36, Ch. 503, L. 2021; amd. Sec. 5, Ch. 545, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 545, L. 2025. Amendment effective May 8, 2025.

Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

Part 2
Family Education Savings Program Account — Administration

15-62-201. Program requirements — establishment of account — qualified and nonqualified withdrawal — penalties. (1) The program must be established in the form determined by the board and may be divided into multiple investment portfolios.

(2) If the program is divided into multiple portfolios as provided in subsection (1), the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular portfolio must be enforceable against the assets of that portfolio only and not against the assets of the program generally, if:

(a) distinct records are maintained for each portfolio; and

(b) the assets associated with each portfolio are accounted for separately from the other assets of the program.

(3) The program must be operated through use of accounts in the trust established by account owners. Contributions to the trust for participation in the program must be made by account owners pursuant to participation agreements and may be made only in cash or a cash equivalent. A person who wishes to open an account in the program shall:

(a) enter into a participation agreement pursuant to which an account will be established under the trust; and

(b) make the minimum contribution required by the board or by opening an account.

(4) Separate records and accounting must be maintained for each account.

(5) A contributor to, account owner of, or designated beneficiary of an account may not direct the investment of any contributions to any account or the earnings generated by the account in violation of section 529 of the Internal Revenue Code, 26 U.S.C. 529, and may not pledge the interest of an account or use an interest in an account as security for a loan.

(6) If there is any distribution from an account to any person or for the benefit of any person during a calendar year, the distribution must be reported to the internal revenue service and the account owner or the designated beneficiary to the extent required by federal law.

(7) At least annually, the board shall issue to each account holder a statement that provides a separate accounting for each qualified designated beneficiary with respect to each account providing:

(a) the beginning balance;

(b) contributions to the account;

(c) withdrawals from the account during the previous year; and

(d) ending investment account value.

(8) Statements and information returns relating to accounts must be prepared and filed to the extent required by federal or state tax law or by administrative rule.

(9) A state or local government or organizations described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), may, without designating a designated beneficiary, open and become the account owner of an account to fund scholarships for persons whose identity will be determined after an account is opened.

History: En. Sec. 4, Ch. 540, L. 1997; amd. Sec. 6, Ch. 468, L. 2001; amd. Sec. 3, Ch. 566, L. 2003; amd. Sec. 4, Ch. 549, L. 2005; amd. Sec. 4, Ch. 349, L. 2021; amd. Sec. 37, Ch. 503, L. 2021.

15-62-202. Changes in designated beneficiary. (1) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the board.

(2) If requested by an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

(3) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate:

(a) the excess contributions provisions adopted by the board pursuant to 20-25-902; or

(b) the investment choice provisions of 15-62-201(5).

History: En. Sec. 5, Ch. 540, L. 1997; amd. Sec. 5, Ch. 349, L. 2021.

15-62-203. Selection of financial institution as program manager — contract — termination. (1) The board shall implement the operation of the program and may contract with one or more financial institutions to act as the program manager to provide management services to the program, including but not limited to investment management, account administration, customer service, and marketing services.

(2) The committee may solicit proposals from financial institutions to act as program managers of the program.

(3) On the recommendation of the committee, the board shall select as program managers the financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and to this state, of:

(a) financial stability and integrity;

(b) the quality of the investment products being offered;

(c) the ability of the financial institutions, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;

(d) if applicable, the financial institution's plan for promoting the program and the investment that it is willing to make to promote the program;

(e) the fees, if any, proposed to be charged to persons for maintaining accounts;

(f) the minimum initial contribution and minimum contributions to maintain accounts in the program and the ability to accept contributions through payroll deduction plans and other contribution plans; and

(g) any other benefits to this state or its residents contained in the proposal.

(4) A program manager or its subcontractor shall:

(a) take action required to keep the program in compliance with its contract or the requirements of this chapter to manage the program so that it is treated as a qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529;

(b) keep adequate records of each account, keep each account segregated from each other account, and provide the board with the information necessary to prepare statements required by 15-62-201(6) through (8) or file these statements on behalf of the board;

(c) compile and total information contained in statements required to be prepared under 15-62-201(6) through (8) and provide these compilations to the board;

(d) if there is more than one program manager, provide the board with the information to assist the board in determining compliance with policies adopted by the board pursuant to 20-25-902 and to comply with any state or federal tax reporting requirements;

(e) provide representatives of the board, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract. At least once during the term of any contract, the board, its contractor, or the state agency responsible for examination oversight of the program manager shall conduct an examination to the extent needed to determine compliance with the contract.

(f) hold money invested by or through the financial institution in the name of and for the benefit of the trust and the account owner;

(g) prepare and file any federal or tax filing requirements relating to the program and assist the trustee with respect to any other obligations of the trustee.

(5) A person may not circulate any description of the program, whether in writing or through the use of any media, unless the board or its designee first approves the description.

(6) If the board determines not to renew the appointment of a financial institution as program manager, the board may take action consistent with the interest of the program and the accounts and in accordance with its duties as trustee of the trust. Except as provided in subsection (7), if a contract executed between the board and a financial institution pursuant to this section is not renewed, at the end of the term of the nonrenewed contract:

(a) amounts held in accounts previously established during the term of the contract must remain assets of the trust;

(b) the funds in new accounts established after the termination may not be invested by or through the financial institution unless a new contract is executed; and

(c) the continuing role of the financial institution must be governed by rules or policies established by the board or a special contract and all services provided by the financial institution to accounts continue to be subject to the control of the board as trustee of the trust with responsibility for all accounts in the program.

(7) (a) The board may terminate a contract with a financial institution or prohibit the continued investment of funds by or through a financial institution under subsection (6) at any time for good cause on the recommendation of the committee. If a contract is terminated or investment is prohibited pursuant to this subsection, the trustee shall seek to promptly reinvest program assets directly in its capacity as trustee of the trust or by or through another financial institution that is selected as a program manager by the board and into investment products selected by the board that are as similar as possible to the original investments.

(b) If the termination of a program manager causes an emergency that might lead to a loss of funds to any account owner, the board or trustee may take whatever emergency action is necessary or appropriate to prevent the loss of funds invested pursuant to this chapter.

History: **En. Sec. 8, Ch. 540, L. 1997; amd. Sec. 7, Ch. 468, L. 2001; amd. Sec. 4, Ch. 566, L. 2003; amd. Sec. 5, Ch. 549, L. 2005; amd. Sec. 6, Ch. 349, L. 2021.**

15-62-204. Repealed. Sec. 8, Ch. 468, L. 2001.

History: **En. Sec. 9, Ch. 540, L. 1997; amd. Sec. 39, Ch. 51, L. 1999.**

15-62-205. Scholarships and financial aid provisions — exceptions. (1) Except as provided in subsection (2), a student loan program, student grant program, or other financial assistance program established or administered by the state or a financial assistance program administered by a state-supported college or university must treat the balance in an account of which the student is a designated beneficiary as if it were an asset of the parent of the designated beneficiary and not as a scholarship or grant or as an asset of the student for determining a student's or parent's income, assets, or financial need.

(2) This section does not apply if:

(a) federal law requires all or a portion of the amount in an account to be taken into account in a different manner;

(b) federal benefits could be lost if all or a portion of the amount in an account is not taken into account in a different manner; or

(c) a specific grant establishing a financial assistance program requires that all or a portion of the amount in an account be taken into account.

History: En. Sec. 10, Ch. 540, L. 1997.

15-62-206. Limitations. (1) This chapter may not be construed to:

(a) give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;

(b) guarantee that a designated beneficiary will be admitted to a higher education institution or an elementary or secondary school or be allowed to continue enrollment at or graduate from a higher education institution or an elementary or secondary school located in this state after admission;

(c) establish state residency for a person merely because the person is a designated beneficiary; or

(d) guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified education expenses of a designated beneficiary.

(2) This chapter does not establish any obligation of this state or any agency or instrumentality of the state to guarantee for the benefit of any account owner, contributor to an account, or designated beneficiary:

(a) the return of any amounts contributed to an account;

(b) the rate of interest or other return on any account; or

(c) the payment of interest or other return on any account.

(3) Under policies adopted by the board, each contract, application, offering or disclosure document, and any other type of document identified by the board that may be used in connection with a contribution to an account must clearly indicate that the account is not insured by the state and that the principal deposited or the investment return is not guaranteed by the state.

History: En. Sec. 11, Ch. 540, L. 1997; amd. Sec. 5, Ch. 566, L. 2003; amd. Sec. 7, Ch. 349, L. 2021; amd. Sec. 38, Ch. 503, L. 2021.

15-62-207. Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income in accordance with 15-30-2120. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident.

History: En. Sec. 1, Ch. 468, L. 2001; amd. Sec. 6, Ch. 566, L. 2003; amd. Sec. 2, Ch. 509, L. 2007; amd. Sec. 39, Ch. 503, L. 2021; amd. Sec. 6, Ch. 545, L. 2025; amd. Sec. 2, Ch. 734, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 6, Ch. 545, L. 2025. Amendment effective May 8, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 734, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 10, Ch. 545, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023."

Section 5, Ch. 734, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2024."

Cross-References

Election to deposit refund to education savings or ABLE account, 15-30-2393.

15-62-208. Tax on certain withdrawals of deductible contributions. (1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that were deducted from income in calculating Montana individual income taxes.

(2) For purposes of determining the portion of a recapturable withdrawal that reduced Montana individual income taxes, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529 of the Internal Revenue Code of 1986, 26 U.S.C. 529. The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce Montana individual income taxes, to the extent of those contributions, and then to contributions that reduced Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced Montana individual income taxes, to the extent of the contributions, and then to contributions that did not reduce Montana individual income taxes.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's Montana individual income taxes unless the contributor can demonstrate that all or a portion of the contributions did not reduce Montana individual income taxes.

(5) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal or a withdrawal or distribution from an account that was opened after the date that is 1 year prior to the date of the withdrawal or distribution.

(6) The department shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section.

History: En. Sec. 2, Ch. 468, L. 2001; amd. Sec. 3, Ch. 509, L. 2007; amd. Sec. 8, Ch. 349, L. 2021; amd. Sec. 40, Ch. 503, L. 2021; amd. Sec. 1, Ch. 102, L. 2023.

15-62-209. Access to records. Information that identifies the contributor, account owner, or designated beneficiary of a family education savings account is confidential information as defined in 2-6-1002 and is exempt from any provision of law permitting the public examination or copying of documents. The provisions of this section may not prevent the release of information about a specific designated beneficiary to a higher education institution at which the designated beneficiary is enrolled or to which the designated beneficiary has applied for admission.

History: En. Sec. 3, Ch. 468, L. 2001; amd. Sec. 42, Ch. 348, L. 2015.

15-62-210. Exemption from claims of creditors. (1) Except as provided in subsection (3), up to $100,000 of assets and earnings held in and distributions from the trust by or on behalf of an account owner, contributor, or designated beneficiary of a participating trust agreement are exempt from all claims of creditors of the account owner, contributor, or designated beneficiary.

(2) Subsection (1) applies to assets and earnings held in and distributions from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), if the owner, contributor, or designated beneficiary is a Montana resident.

(3) Assets, earnings, and distributions are not protected from claims if the contribution violates the Uniform Fraudulent Transfer Act provided for in Title 31, chapter 2, part 3, or 11 U.S.C. 548.

History: En. Sec. 1, Ch. 108, L. 2019.

Part 3
Family Education Savings Trust

15-62-301. Family education savings trust. (1) There is a family education savings trust that is an instrumentality of the state and that is created for a public purpose.

(2) The assets of the trust consist of investments and earnings on investments of funds received by the program as contributions to accounts and amounts transferred to the trust from accounts established prior to October 1, 2005, pursuant to subsection (3).

(3) In accordance with the instructions of the account owner, the trustee shall invest funds contributed to each account in permitted investment products as provided in this chapter. The trustee or a financial institution acting as an agent of the trustee shall pay or apply funds from each account for qualified withdrawals, nonqualified withdrawals, and withholdings.

History: En. Sec. 1, Ch. 549, L. 2005; amd. Sec. 9, Ch. 349, L. 2021.

15-62-302. Repealed. Sec. 11, Ch. 349, L. 2021.

History: En. Sec. 2, Ch. 549, L. 2005.

CHAPTER 63
FIRST-TIME HOME BUYER SAVINGS ACCOUNT

Part 1 — General Provisions

15-63-101. Short title.
15-63-102. Definitions.

Part 2 — Account Administration

15-63-201. Establishment of account.
15-63-202. Tax exemption — conditions.
15-63-203. Withdrawal of funds from account for purposes other than eligible costs for first-time home purchase.
15-63-204. Administration of account.
15-63-205. False claims prohibited.

Part 1
General Provisions

15-63-101. Short title. This chapter may be cited as the "Montana First-Time Home Buyer Savings Account Act".

History: En. Sec. 1, Ch. 544, L. 1997.

15-63-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Account administrator" means:

(a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

(b) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50; or

(c) the account holder.

(2) "Account holder" means an individual who is a resident of this state and who establishes, individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer. A married taxpayer filing separately may be an account holder if the account is established separately from the taxpayer's spouse. Married taxpayers filing jointly are considered as the account holder.

(3) "Eligible costs" means the downpayment and allowable closing costs for the purchase of a single-family residence in Montana by a first-time home buyer.

(4) "First-time home buyer" means an individual who has never owned or purchased under contract for deed, either individually or jointly, a single-family residence in Montana or out-of-state.

(5) "First-time home buyer savings account" or "account" means an account established with an account administrator in this state pursuant to 15-63-201.

(6) "Single-family residence" means an owner-occupied residence in Montana, including a manufactured home, trailer, or mobile home, that is an improvement to real property or a condominium unit that is owned by or that has been purchased under contract for deed by a person, individually or jointly.

History: En. Sec. 2, Ch. 544, L. 1997; amd. Sec. 4, Ch. 169, L. 2015.

Part 2
Account Administration

15-63-201. Establishment of account. Prior to January 1, 2024, a first-time home buyer who is a resident of this state may establish a first-time home buyer savings account for the first-time home buyer, either individually or jointly.

History: En. Sec. 3, Ch. 544, L. 1997; amd. Sec. 9, Ch. 701, L. 2023.

15-63-202. Tax exemption — conditions. (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed prior to January 1, 2024, by an account holder to an account and all interest or other income on the principal that was contributed prior to January 1, 2024, may be excluded from Montana taxable income of the account holder and is exempt from taxation, in accordance with 15-30-2120, as long as the principal and interest or other income is contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase of a single-family residence.

(2) For contributions to principal that were made prior to January 1, 2024, there is no limitation on the amount of principal and interest or other income on the principal that may be retained tax-free within an account.

(3) The account holder who establishes the account, individually or jointly, is the owner of the account. An account holder may withdraw money in an account and deposit the money in another account with a different account administrator or with the same account administrator without incurring tax liability.

(4) The account holder shall use the money in the account for the eligible costs related to the purchase of a single-family residence within 10 years following the year in which the account was established. Any principal and income in the account not expended on eligible costs at the time of purchase of a single-family residence or any principal or income remaining in the account on December 31 of the last year of the 10-year period must be taxed as ordinary income.

(5) The amount of a disbursement of any assets of a first-time home buyer savings account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account holder does not subject the account holder to tax liability.

(6) Within 30 days of being furnished proof of the death of the account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223.

History: En. Sec. 4, Ch. 544, L. 1997; amd. Sec. 3, Ch. 429, L. 1999; amd. Sec. 41, Ch. 503, L. 2021.

15-63-203. Withdrawal of funds from account for purposes other than eligible costs for first-time home purchase. (1) An account holder may withdraw money from the first-time home buyer's savings account for any purpose other than eligible costs for the first-time purchase of a single-family residence only on the last business day of the account administrator's business year. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account holder.

(2) If the account holder withdraws money from the account other than for eligible costs for the purchase of a single-family residence or other than on the last business day of the account administrator's business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the withdrawal. Payments made to the department pursuant to

this section must be deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account holder.

(3) For the purposes of this section, "last business day of the account administrator's business year", as applied to an account administrator who is also the account holder, means the last weekday in December.

History: En. Sec. 5, Ch. 544, L. 1997.

15-63-204. Administration of account. (1) An account administrator shall administer the first-time home buyer savings account from which the payment of eligible costs for the purchase of a single-family residence is made and has a fiduciary duty to the person for whose benefit the account is administered. Except for reporting and remitting of penalties to the department, a financial institution shall administer a first-time home buyer's savings account as a regular deposit. A financial institution is not responsible for the use or applications of funds.

(2) Within 30 days after an account administrator begins to administer an account, the account administrator shall notify in writing each account holder on whose behalf the account administrator administers an account of the date of the last business day of the account administrator's business year.

(3) An account administrator may use funds held in a first-time home buyer savings account only for the purpose of paying the eligible costs of the account holder or paying the expenses of administering the account.

(4) The account holder may submit documentation of eligible costs paid by the account holder in the tax year to the account administrator, and the account administrator shall reimburse the account holder from the account holder's account for eligible costs for the first-time purchase of a single-family residence. The burden of proving that a withdrawal from a first-time home buyer's savings account was made for eligible costs is upon the account holder and not upon the account administrator.

(5) In the case of an account administrator who is also the account holder:

(a) notice by the account administrator to the account holder pursuant to subsection (2) is not required;

(b) the account administrator may not use funds held in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution or other holder of the account;

(c) documentation of the segregation of funds in separate accounts and documentation of eligible costs for the purchase of a single-family residence must be maintained but is not required to be submitted to the account administrator;

(d) the account administrator shall file reports as reasonably required by the department; and

(e) the account holder is required to forward the 10% penalty on funds withdrawn for other than eligible costs to the department.

History: En. Sec. 6, Ch. 544, L. 1997; amd. Sec. 4, Ch. 429, L. 1999.

15-63-205. False claims prohibited. A person who knowingly prepares or causes to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an account is subject to the provisions of 15-61-205.

History: En. Sec. 7, Ch. 544, L. 1997.

CHAPTER 64
TAXATION OF DRUGS AND DRUG LICENSING

Part 1 — General Provisions

15-64-101. Definitions.
15-64-102. Tax on marijuana sales.
15-64-103. Returns — payment — recordkeeping — authority of department.
15-64-104. Deficiency assessment — penalty and interest — statute of limitations.
15-64-105. Procedure to compute tax in absence of statement — estimation of tax — failure to file — penalty and interest.
15-64-106. Authority to collect delinquent taxes.
15-64-107 through 15-64-109 reserved.
15-64-110. Refunds — interest — limitations.

15-64-111. Information — confidentiality — agreements with another state.
15-64-112. Department to make rules.

Parts 2 through 9 reserved

Part 10 — Opioid Seller License Tax

15-64-1001. Definitions.
15-64-1002. License requirements — rulemaking.

Part 1
General Provisions

Cross-References
Marijuana special revenue account, 16-12-111.

15-64-101. Definitions. As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

(3) "Department" means the department of revenue provided for in 2-15-1301.

(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

(6) "Marijuana" has the meaning provided in 16-12-102.

(7) "Marijuana product" has the meaning provided in 16-12-102.

(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

(9) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser after any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

History: En. Sec. 18, Ch. 408, L. 2017; amd. Sec. 29, Ch. 576, L. 2021; amd. Sec. 2, Ch. 712, L. 2023; amd. Sec. 1, Ch. 550, L. 2025.

Compiler's Comments
2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 550, L. 2025. Amendment effective May 8, 2025.
Applicability: Section 9, Ch. 550, L. 2025, provided: "[Section 1] applies to tax quarters beginning after June 30, 2025."

15-64-102. Tax on marijuana sales. (1) For a medical marijuana dispensary, there is a 4% tax on the retail price of marijuana, marijuana products, and live marijuana plants for use by individuals with debilitating medical conditions.

(2) For an adult use-dispensary, there is a 20% tax on the retail price of marijuana, marijuana products, and live marijuana plants.

(3) The taxes set forth in subsections (1) and (2) are imposed on the purchaser and must be collected at the time of the sale and paid by the seller to the department for deposit in the marijuana state special revenue account provided for in 16-12-111.

(4) A dispensary licensed under Title 16, chapter 12, shall submit a quarterly report to the department listing the total dollar amount of sales. The report must be:

(a) made on forms prescribed by the department; and

(b) submitted within 15 days of the end of each calendar quarter.

(5) At the time the report is filed, the dispensary shall submit a payment equal to the percentage provided in subsection (1) or (2) of the total dollar amount of sales.

(6) The department shall deposit the taxes paid under this section in the state special revenue account provided for in 16-12-111 within the state special revenue fund established in 17-2-102.

(7) The tax imposed by this part and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(8) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under 15-64-103 through 15-64-106:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in 15-64-103 through 15-64-106 and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

(b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part;

(c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(9) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (8)(a) to establish individual liability and may consider any other available information.

(10) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.

(11) The tax levied pursuant to this section is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as provided by law.

(12) The tax levied under this section must be used as designated in 16-12-111.

History: En. Sec. 19, Ch. 408, L. 2017; amd. Sec. 1, Ch. 292, L. 2019; amd. Sec. 30, Ch. 576, L. 2021.

15-64-103. Returns — payment — recordkeeping — authority of department. (1) Each dispensary licensed under Title 16, chapter 12, shall file a return, on a form provided by the department, and pay the tax due as provided in 15-64-102.

(2) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(3) (a) A person required to pay to the department the taxes imposed by this part shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana and marijuana products, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of this part, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

History: En. Sec. 20, Ch. 408, L. 2017; amd. Sec. 31, Ch. 576, L. 2021.

15-64-104. Deficiency assessment — penalty and interest — statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the licensee a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

History: En. Sec. 21, Ch. 408, L. 2017; amd. Sec. 32, Ch. 576, L. 2021.

15-64-105. Procedure to compute tax in absence of statement — estimation of tax — failure to file — penalty and interest. (1) If the licensee fails to file any return required by 15-64-103 within the time required, the department may, at any time, audit the licensee or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the licensee for the taxes, penalties, and interest due the state.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the licensee a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206.

History: En. Sec. 22, Ch. 408, L. 2017; amd. Sec. 33, Ch. 576, L. 2021.

15-64-106. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the licensee from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the licensee has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the licensee if a claim is required before funds are available for offset.

History: En. Sec. 23, Ch. 408, L. 2017; amd. Sec. 34, Ch. 576, L. 2021.

15-64-107 through 15-64-109 reserved.

15-64-110. Refunds — interest — limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under this part must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed $1.

History: En. Sec. 24, Ch. 408, L. 2017.

15-64-111. Information — confidentiality — agreements with another state. (1) (a) Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under this part or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity of a person making a return or the content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

(2) (a) This section may not be construed to prohibit the department from providing information obtained under this part to the department of justice, the internal revenue service, or law enforcement to be used for the purpose of investigation and prevention of criminal activity, noncompliance, tax evasion, fraud, and abuse under this part.

(b) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(c) In order to implement the provisions of this part, the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by this part, the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this part or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this part or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(5) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309.

History: En. Sec. 25, Ch. 408, L. 2017; amd. Sec. 35, Ch. 576, L. 2021.

15-64-112. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of imposing and collecting the tax on the sale of marijuana and marijuana products.

History: En. Sec. 26, Ch. 408, L. 2017; amd. Sec. 36, Ch. 576, L. 2021.

Parts 2 through 9 reserved

Part 10
Opioid Seller License Tax

15-64-1001. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Opioid" has the meaning provided for "opiate" in 50-32-101.

(3) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed, who is a wholesaler licensed by the board of pharmacy and who is a distributor of opioids.

History: En. Sec. 1, Ch. 413, L. 2019.

15-64-1002. License requirements — rulemaking. (1) (a) Except as provided in subsection (1)(b), a person engaging in the initial sale of opioids in the state shall first obtain a license from the department and pay the annual license fee of $500. The license is valid from January 1 through December 31 each year. If a license is obtained after January 1 in any year, the license is valid from the date the license is obtained through December 31 of that year.

(b) A retail pharmacy is not required to obtain the license provided for in this subsection (1).

(2) The department shall maintain on its website a current list of approved licensed opioid sellers eligible to sell opioids in the state.

(3) The annual license fee revenue must be deposited in the treatment court support account provided for in 46-1-1115.

(4) The department may adopt rules to administer and enforce the provisions of this part.

History: En. Sec. 2, Ch. 413, L. 2019.

CHAPTER 65
LODGING FACILITY USE TAX

Part 1 — General Provisions

15-65-101. Definitions.
15-65-102. Rulemaking authority.
15-65-103 through 15-65-110 reserved.
15-65-111. Tax rate.
15-65-112. Collection and reporting.
15-65-113. Audits — records.
15-65-114. Seller's permit — application to department — collection by short-term rental marketplace.
15-65-115. Failure to pay or file — penalty and interest — review — interest.
15-65-116. Credit for overpayment — interest on overpayment.
15-65-117 through 15-65-120 reserved.
15-65-121. Distribution of tax proceeds.
15-65-122. Qualification of nonprofit entities for receipt of funds — limitation on administrative costs.
15-65-123 through 15-65-130 reserved.
15-65-131. State agencies to account for in-state lodging expenditures.
15-65-132 through 15-65-135 reserved.
15-65-136. Terminated.

Part 1
General Provisions

15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) "Accommodations" has the meaning provided in 15-68-101.

(2) "Council" means the tourism advisory council established in 2-15-1816.

(3) "Indian tourism region" includes the area recognized as being historically associated with the federally recognized reservations in Montana and the Little Shell Chippewa tribe.

(4) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort area district in which the bureau is located.

(5) "Person" has the meaning provided in 15-68-101.

(6) "Purchaser" has the meaning provided in 15-68-101.

(7) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

(8) "Resort area" means an area established pursuant to 7-6-1508.

(9) "Resort area district" has the meaning provided in 7-6-1501.

(10) "Sales price" has the meaning provided in 15-68-101.

(11) "Seller" has the meaning provided in 15-68-101.

(12) "Short-term rental marketplace" has the meaning provided in 15-68-101.

History: En. Sec. 1, Ch. 607, L. 1987; amd. Sec. 1, Ch. 195, L. 2001; amd. Sec. 195, Ch. 49, L. 2015; amd. Sec. 2, Ch. 405, L. 2017; amd. Sec. 1, Ch. 240, L. 2021; amd. Sec. 1, Ch. 484, L. 2021.

15-65-102. Rulemaking authority. The department of revenue shall adopt such rules as may be necessary to implement and administer this part.

History: En. Sec. 11, Ch. 607, L. 1987.

Cross-References

Adoption of administrative rules, Title 2, ch. 4, part 3.

Rulemaking authority of Department of Commerce, 2-15-1816.

15-65-103 through 15-65-110 reserved.

15-65-111. Tax rate. There is imposed on the user of accommodations a tax at a rate equal to 4% of the sales price paid by the purchaser.

History: En. Sec. 2, Ch. 607, L. 1987; amd. Sec. 2, Ch. 484, L. 2021.

15-65-112. Collection and reporting. (1) The seller of accommodations shall collect the tax imposed by 15-65-111.

(2) The seller shall report to the department of revenue, at the end of each calendar quarter, the gross receipts collected during that quarter attributable to the sales price paid by the purchaser. The report is due on or before the last day of the month following the end of the calendar quarter and must be accompanied by a payment in an amount equal to the tax required to be collected under this section.

History: En. Sec. 3, Ch. 607, L. 1987; amd. Sec. 5, Ch. 676, L. 1991; amd. Sec. 3, Ch. 484, L. 2021.

15-65-113. Audits — records. (1) The department of revenue may audit the books and records of any seller to ensure that the proper amount of tax imposed by 15-65-111 has been collected. An audit may be done on the premises of the seller or at any other convenient location.

(2) The department may request the seller to provide the department with books, ledgers, registers, or other documents necessary to verify the correct amount of tax.

(3) The seller shall maintain and have available for inspection by the department books, ledgers, registers, or other documents showing the sales price and tax collections for the preceding 5 years.

(4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false or fraudulent return violating the provisions of this part, the amount of tax due under any return must be determined by the department within 5 years after the return is made, and the department thereafter is barred from revising any return or recomputing the tax due after the department has determined the tax, and no proceeding in court for the collection of the tax may be instituted unless notice of any additional tax is provided within the period.

(5) An application for revision may be filed with the department by a seller within 5 years from the original due date of the return.

History: En. Sec. 4, Ch. 607, L. 1987; amd. Sec. 4, Ch. 484, L. 2021.

15-65-114. Seller's permit — application to department — collection by short-term rental marketplace. (1) Before engaging in business within the state, a seller of accommodations must obtain a seller's permit in accordance with 15-68-401.

(2) A short-term rental marketplace shall register with the department of revenue and collect the tax imposed by this chapter as provided in 15-68-111.

History: En. Sec. 5, Ch. 607, L. 1987; amd. Sec. 5, Ch. 484, L. 2021.

15-65-115. Failure to pay or file — penalty and interest — review — interest. (1) A seller who fails to file the report as required by 15-65-112 must be assessed a penalty as provided in 15-1-216. The department may waive any penalty as provided in 15-1-206.

(2) A seller who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) (a) If a seller fails to file the report required by 15-65-112 or if the department determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the seller. The provisions of 15-1-211 apply to any assessment by the department. The seller may seek review of the assessment pursuant to 15-1-211.

(b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the seller. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 6, Ch. 607, L. 1987; amd. Secs. 6, 19, Ch. 676, L. 1991; amd. Sec. 26, Ch. 811, L. 1991; amd. Sec. 45, Ch. 427, L. 1999; amd. Sec. 35, Ch. 594, L. 2005; amd. Sec. 6, Ch. 484, L. 2021.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-65-116. Credit for overpayment — interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation, or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

History: En. Sec. 12, Ch. 676, L. 1991; amd. Sec. 46, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

15-65-117 through 15-65-120 reserved.

15-65-121. Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department of revenue. The department of revenue may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsection (2) of this section, the department of revenue shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department of revenue shall distribute the portion of the 4% deducted from the state agencies in-state lodging calculation that was paid with federal funds to the department of administration for return to the federal government.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or distributed to agencies that paid the tax with federal funds must be transferred to individual accounts in the state special revenue fund as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 1.5% to the invasive species state special revenue account established in 80-7-1004;

(e) 24.5% to be used by the department of commerce for tourism media, advertising film programs, made-in-Montana promotions and main street programs, wayfinding and signage, and support to trade offices;

(f) 16.5% to be used by the department of commerce for rural tourism, under-visited area attraction projects, and tribal tourism, including infrastructure, marketing, and promotional activities;

(g) 15.5% to be used by the department of commerce for tourism-related emergency services and tourism grants, including agritourism grants and Montana-based film grants;

(h) 2.5% to be used by the department of commerce in collaboration with the office of economic development established in 2-15-218 for regional tourism assistance, new tourism attractions, and other state business development programs;

(i) (i) except as provided in subsection (2)(i)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

(j) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region;

(k) 2.5% to the Montana historical interpretation state special revenue account established in 22-3-115;

(l) 2.5% to the emergency lodging and recovery for victims of domestic violence or human trafficking account established in 44-4-1506;

(m) 2% to the Montana heritage preservation and development account provided for in 22-3-1004;

(n) any unspent funds from the accounts in subsections (2)(e) through (2)(h) must be deposited in the account of subsection (2)(e) by October 1 of each year; and

(o) $250,000 in each year of the biennium beginning July 1, 2025, to the Montana heritage commission for projects at Reeder's Alley in Helena and Grace Methodist Church in Virginia City.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(c) and (2)(e) through (2)(i) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to state special revenue accounts pursuant to subsection (2) are subject to appropriation by the legislature.

History: En. Sec. 7, Ch. 607, L. 1987; amd. Sec. 15, Ch. 607, L. 1987; amd. Sec. 18, Ch. 83, L. 1989; amd. Sec. 2, Ch. 647, L. 1989; amd. Sec. 1, Ch. 11, Sp. L. July 1992; amd. Sec. 16, Ch. 455, L. 1993; amd. Sec. 1, Ch. 574, L. 1993; amd. Sec. 20, Ch. 18, L. 1995; amd. Sec. 2, Ch. 442, L. 1995; amd. Sec. 11, Ch. 469, L. 1997; amd. Sec. 1, Ch. 490, L. 1999; amd. Sec. 2, Ch. 195, L. 2001; amd. Sec. 1, Ch. 469, L. 2001; amd. Sec. 2, Ch. 11, Sp. L. August 2002; amd. Sec. 8, Ch. 13, Sp. L. August 2002; amd. Sec. 20, Ch. 130, L. 2005; amd. Sec. 11, Ch. 475, L. 2007; amd. Sec. 1, Ch. 319, L. 2011; amd. Sec. 2, Ch. 358, L. 2011; amd. Sec. 1, Ch. 32, L. 2013; amd. Sec. 3, Ch. 405, L. 2017; amd. Sec. 2, Ch. 356, L. 2019; amd. Sec. 8, Ch. 459, L. 2019; amd. Sec. 4, Ch. 563, L. 2021; amd. Sec. 1, Ch. 67, L. 2023; amd. Sec. 2, Ch. 699, L. 2023; amd. Sec. 3, Ch. 758, L. 2023; amd. Sec. 13, Ch. 763, L. 2023; amd. Sec. 1, Ch. 605, L. 2025; amd. Sec. 3, Ch. 738, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 605, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 3, Ch. 738, L. 2025. Amendment effective June 30, 2025.

Termination Provisions Amended: Section 4, Ch. 605, L. 2025, amended sec. 12, Ch. 563, L. 2021, by shortening the termination date of the Ch. 563 amendments to this section to June 30, 2025. Effective May 13, 2025.

Section 5, Ch. 605, L. 2025, amended sec. 10, Ch. 758, L. 2023, by shortening the termination date of the Ch. 758 amendments to this section to June 30, 2025. Effective May 13, 2025.

15-65-122. Qualification of nonprofit entities for receipt of funds — limitation on administrative costs. (1) The department of revenue shall provide the council with quarterly reports of regional tax proceeds and tax proceeds of cities, consolidated city-counties, resort areas, and resort area districts that qualify for disbursement of funds under 15-65-121.

(2) Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and visitors bureau until that entity has submitted an annual marketing plan to the council and that plan has been approved by the council.

(3) A maximum of 20% of the funds received by a regional nonprofit tourism corporation or nonprofit convention and visitors bureau may be used for administrative purposes as defined by the council.

History: En. Sec. 8, Ch. 607, L. 1987; amd. Sec. 3, Ch. 195, L. 2001.

15-65-123 through 15-65-130 reserved.

15-65-131. State agencies to account for in-state lodging expenditures. Each state agency shall account for in-state lodging expenditures in a manner that will enable the department to determine total expenditures for in-state lodging by state agencies in order to make a deposit of a portion of the tax proceeds imposed by 15-65-111 in the state general fund and distribute the portion of taxes paid with federal funds to the agency that made the in-state lodging expenditure.

History: En. Sec. 1, Ch. 647, L. 1989; amd. Sec. 2, Ch. 490, L. 1999; amd. Sec. 2, Ch. 319, L. 2011; amd. Sec. 2, Ch. 32, L. 2013.

15-65-132 through 15-65-135 reserved.

15-65-136. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 15, Ch. 15, Sp. L. July 1992; amd. Sec. 17, Ch. 455, L. 1993.

CHAPTER 66
HOSPITAL FACILITY UTILIZATION FEE

Part 1 — General Provisions

15-66-101. Definitions.
15-66-102. Utilization fees — inpatient bed days — hospital outpatient revenue.
15-66-103. Relation to other taxes and fees.
15-66-104. Rulemaking.

Part 2 — Collection of Fee

15-66-201. Reporting and collection of fees.
15-66-202. Audit — records.
15-66-203. Periods of limitation.
15-66-204. Penalty and interest for delinquent fees — waiver.
15-66-205. Department authority to request information.
15-66-206. Deficiency assessment — penalty and interest — hearing.
15-66-207. Closing agreements.
15-66-208. Credit for overpayment — interest on overpayment.
15-66-209. Warrant for distraint.

Chapter Compiler's Comments

Contingent Voidness — Payment of Fees: Section 18, Ch. 390, L. 2003, provided: "(1) If federal law or policy is amended so that the utilization fees collected pursuant to [sections 1 through 13] [this chapter] may not be considered as the state's share in claiming federal financial participation under the medicaid program, [sections 1 through 13] [this chapter] are void as of the effective date of the change in federal law or policy.

(2) If the federal government refuses to participate in or denies approval of any plan for medicaid payments to hospitals on grounds that it considers the payments to be reimbursement to facilities for payment of the utilization fees, [sections 1 through 13] [this chapter] are void as of the date of receipt by the department of public health and human services of notice of an official determination of any refusal or denial.

(3) If the federal government determines that a part of [sections 1 through 13] [this chapter] violates federal law or regulations, that part is void as of the date of receipt by the department of public health and human services of notice of an official determination by the federal government. All valid parts of [sections 1 through 13] [this chapter] remain in effect. If the federal government determines that a part of [sections 1 through 13] [this chapter] violates federal law or regulations in one or more of its applications, then the department of public health and human services may not administer [sections 1 through 13] [this chapter] in a manner that violates the pertinent federal law or regulations after the date of receipt by the department of public health and human services of notice of an official determination by the federal government. All valid applications remain in effect.

(4) If [sections 1 through 13] [this chapter] or any part of [sections 1 through 13] [this chapter] imposing a fee on a specific facility becomes void under the provisions of this section, all fees due, received, or collected by the department of revenue prior to the date upon which [sections 1 through 13] [this chapter] or any part of [sections 1 through 13] [this chapter] becomes void must be paid and deposited in accordance with [section 2] [15-66-102] and a person or party may not receive a refund of any fees received or collected by the department of revenue prior to the date upon which [sections 1 through 13] [this chapter] or any part of [sections 1 through 13] [this chapter] becomes void. Any fees owing as of the date on which [sections 1 through 13] [this chapter] becomes void are considered waived.

(5) The department of public health and human services shall notify the code commissioner of the occurrence of any determination made pursuant to subsection (1) or (2) and the date of the occurrence."

Part 1
General Provisions

15-66-101. *(Temporary)* **Definitions.** For purposes of this chapter, the following definitions apply:

(1) (a) "Hospital" has the meaning provided in 50-5-101 and includes a critical access hospital and a rural emergency hospital as those terms are defined in 50-5-101.

(b) The term does not include the Montana state hospital or a hospital or facility operated by the state, a political subdivision of the state, the United States, or an Indian tribe or any facility authorized under the Indian Health Care Improvement Act.

(2) (a) "Hospital outpatient revenue" means the gross revenue from a hospital's charges for services provided on an outpatient basis.

(b) The term does not include charges for professional services provided as part of the outpatient treatment.

(3) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(4) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(5) "Report" means the report of inpatient bed days and hospital outpatient revenue required in 15-66-201.

(6) "Utilization fee" or "fee" means the fees required to be paid as provided in 15-66-102.

(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)

History: En. Sec. 1, Ch. 390, L. 2003; amd. Sec. 1, Ch. 606, L. 2005; amd. Sec. 1, Ch. 517, L. 2007; amd. Sec. 11, Ch. 415, L. 2019; amd. Sec. 2, Ch. 602, L. 2023.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-102. *(Temporary)* **Utilization fees — inpatient bed days — hospital outpatient revenue.** (1) Each hospital in the state shall pay to the department a utilization fee in the amount of $70 for each inpatient bed day.

(2) Each hospital shall pay to the department a utilization fee in the amount of 0.90% of hospital outpatient revenue.

(3) (a) Except as provided in subsection (3)(b), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in the state special revenue account provided for in 53-6-149.

(b) The department shall deposit 54% of the amount paid in accordance with subsection (2) in the Montana HELP Act special revenue account provided for in 53-6-1315. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 2, Ch. 390, L. 2003; amd. Sec. 2, Ch. 606, L. 2005; amd. Sec. 29, Ch. 475, L. 2007; amd. Sec. 11, Ch. 489, L. 2009; amd. Sec. 9, Ch. 19, L. 2011; amd. Sec. 12, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-103. *(Temporary)* **Relation to other taxes and fees.** The utilization fees imposed under 15-66-102 are in addition to any other taxes and fees required to be paid by hospitals. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 12, Ch. 390, L. 2003; amd. Sec. 13, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-104. *(Temporary)* **Rulemaking.** The department may adopt rules necessary to implement and administer this chapter. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 13, Ch. 390, L. 2003.

Part 2
Collection of Fee

15-66-201. *(Temporary)* **Reporting and collection of fees.** (1) On or before March 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days and of hospital outpatient revenue during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fees required to be paid under 15-66-102.

(2) On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state and subject to the provisions of 15-66-102 during the preceding year beginning January 1 and ending December 31. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 3, Ch. 390, L. 2003; amd. Sec. 3, Ch. 606, L. 2005; amd. Sec. 3, Ch. 517, L. 2007; amd. Sec. 14, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-202. *(Temporary)* **Audit — records.** (1) The department may audit the records and other documents of any hospital to ensure that the proper utilization fees have been collected.

(2) The department may require the hospital to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A hospital shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of inpatient bed days in the facility and the hospital outpatient revenue subject to the utilization fees. The facility shall maintain these records for a period of at least 5 years from the date the report is due. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 4, Ch. 390, L. 2003; amd. Sec. 15, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-203. *(Temporary)* **Periods of limitation.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fees, the hospital consents in writing to an assessment after the 5-year period, the fees may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the hospital files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed if a claim is not filed is automatically extended. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 5, Ch. 390, L. 2003; amd. Sec. 16, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-204. *(Temporary)* **Penalty and interest for delinquent fees — waiver.** If the fees for any hospital are not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as provided in 15-1-216, must be added to the fees. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 6, Ch. 390, L. 2003; amd. Sec. 17, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-205. *(Temporary)* **Department authority to request information.** For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of inpatient bed day use or hospital outpatient revenue of any hospital for which information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing on the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 7, Ch. 390, L. 2003; amd. Sec. 18, Ch. 415, L. 2019.

Compiler's Comments

Contingent Termination Provision Repealed: Section 2, Ch. 35, L. 2025, repealed sec. 48, Ch. 415, L. 2019, which terminated this section on occurrence of a contingency. Effective March 27, 2025.

Contingent Termination: Section 48(1) and (2), Ch. 415, L. 2019, provided: "(1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] [53-6-1308] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue."

15-66-206. *(Temporary)* **Deficiency assessment — penalty and interest — hearing.** (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the hospital a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the hospital may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the hospital has requested, shall grant the hospital an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the hospital.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand for payment to the hospital. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216 from the date specified in 15-66-201 for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notice. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 8, Ch. 390, L. 2003; amd. Sec. 36, Ch. 594, L. 2005.

15-66-207. *(Temporary)* **Closing agreements.** (1) The director of the department or any person authorized in writing by the director may enter into an agreement with a hospital relating to the liability of the hospital with respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) in a case involving the agreement, the agreement may not be reopened as to matters agreed upon or modified by any officer, employee, or agent of this state; and

(b) the agreement may not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding concerning the agreement or concerning any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 9, Ch. 390, L. 2003.

15-66-208. *(Temporary)* **Credit for overpayment — interest on overpayment.** (1) If the department determines that the amount of fees, penalty, or interest due for any period is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest due from the hospital at that time and the balance must be refunded to the hospital or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the hospital to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than $1.

(4) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 10, Ch. 390, L. 2003.

15-66-209. *(Temporary)* **Warrant for distraint.** If the utilization fee is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 11, Ch. 390, L. 2003.

CHAPTER 67
INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED — UTILIZATION FEE

Part 1 — General Provisions

15-67-101. Definitions.
15-67-102. Utilization fee for resident bed days.
15-67-103. Relation to other taxes and fees.
15-67-104. Rulemaking authority.

Part 2 — Collection of Fee

15-67-201. Reporting, collection, and deposit of fee.
15-67-202. Audit — records.
15-67-203. Statute of limitations.
15-67-204. Penalty and interest for delinquent fee.
15-67-205. Estimated fee on failure to file.
15-67-206. Deficiency assessment — penalty and interest — hearing.
15-67-207. Closing agreements.
15-67-208. Credit for overpayment — interest.
15-67-209. Warrant for distraint.

Chapter Compiler's Comments

Contingent Voidness: Section 17, Ch. 531, L. 2003, provided: "(1) If federal law or policy is amended so that the utilization fees collected pursuant to [sections 1 through 13] [Title 15, ch. 67] may not be considered as the state's share in claiming federal financial participation under the medicaid program, then [this act] is void as of the effective date of the change in federal law or policy.

(2) If the federal government refuses to participate in or denies approval of any plan for medicaid payments to intermediate care facilities on grounds that it considers the payments to be reimbursement to facilities for payment

of the utilization fees, then [this act] is void as of the date of receipt by the department of public health and human services of notice of an official determination of the refusal or denial.

(3) If [this act] becomes void under the provisions of this section, all fees due or received or collected by the department of revenue prior to the date upon which the act becomes void must be paid and deposited in accordance with [section 2] [15-67-102] and a person or party may not receive a refund of any fees received or collected by the department of revenue prior to the date upon which [this act] becomes void.

(4) The department of revenue or the department of public health and human services, as appropriate, shall notify the code commissioner of the occurrence of any of the contingencies provided for in subsections (1) through (3) and the effective date of the contingency."

Part 1
General Provisions

15-67-101. *(Temporary)* **Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31.

(2) "Department" means the department of revenue established in 2-15-1301.

(3) "Intermediate care facility" or "facility" means an intermediate care facility for the developmentally disabled licensed pursuant to 50-5-238 or an intermediate care facility for the intellectually disabled that is in compliance with the federal standards provided in 42 CFR, part 483, subpart I, for medicaid conditions of participation.

(4) (a) "Quarterly revenue" means all revenue received during a calendar quarter by a facility operating in Montana for providing for client care.

(b) For facilities operated by the state, the term means total expenditures for the quarter.

(5) "Report" means the report of resident bed days required in 15-67-201.

(6) "Resident" means an individual obtaining care in an intermediate care facility.

(7) "Resident bed day" means each 24-hour period that a resident in an intermediate care facility is present in the facility and receiving care or in which a bed is held for a resident while the resident is on temporary leave from the facility. The term includes all benefit days as defined for medicare reporting purposes in section 242.1 of Publication 12, the Skilled Nursing Facility Manual, published by the centers for medicare and medicaid services, regardless of the source of payment.

(8) "Utilization fee" or "fee" means the fee required to be paid for each resident bed day in an intermediate care facility, as provided in 15-67-102. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003; sec. 22, Ch. 68, L. 2013—see chapter compiler's comment.)*

History: En. Sec. 1, Ch. 531, L. 2003; amd. Sec. 18, Ch. 531, L. 2003; amd. Sec. 1, Ch. 377, L. 2005; amd. Sec. 1, Ch. 68, L. 2013.

Compiler's Comments

Contingent Termination: Section 22, Ch. 68, L. 2013, provided that the 2013 amendments to this section terminate on the occurrence of the contingency contained in sec. 17, Ch. 531, L. 2003.

15-67-102. *(Temporary)* **Utilization fee for resident bed days.** (1) Each calendar quarter, an intermediate care facility shall pay to the department a utilization fee for each resident bed day calculated as provided in subsection (2).

(2) The utilization fee is 6% of the intermediate care facility's quarterly revenue divided by the resident bed days for the quarter.

(3) In accordance with the provisions of 17-2-124, all proceeds of the utilization fee, including penalty and interest, must be deposited as follows:

(a) 30% in the state general fund; and

(b) 70% in an account in the state special revenue fund established pursuant to 53-6-1101 to the credit of the department of public health and human services to finance, administer, and provide health and human services. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 2, Ch. 531, L. 2003; amd. Sec. 2, Ch. 377, L. 2005; amd. Sec. 13, Ch. 475, L. 2007.

15-67-103. *(Temporary)* **Relation to other taxes and fees.** The utilization fee imposed under 15-67-102 is in addition to any other taxes and fees required by law to be paid by an intermediate care facility. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 12, Ch. 531, L. 2003.

15-67-104. *(Temporary)* **Rulemaking authority.** The department may adopt rules necessary to implement and administer this chapter. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 13, Ch. 531, L. 2003.

Part 2
Collection of Fee

15-67-201. *(Temporary)* **Reporting, collection, and deposit of fee.** (1) An intermediate care facility shall report to the department, following the end of each calendar quarter, the facility's quarterly revenue and the number of resident bed days in the facility during the quarter. The report, in a form prescribed by the department, is due on or before the last day of the month following the close of each calendar quarter. The report must be accompanied by a payment in an amount equal to the utilization fee required to be paid under 15-67-102. The department shall deposit the utilization fee pursuant to 15-67-102(3).

(2) At the end of each calendar quarter, the department of public health and human services shall provide the department with a list of intermediate care facilities. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 3, Ch. 531, L. 2003.

15-67-202. *(Temporary)* **Audit — records.** (1) The department may audit the records and other documents of any intermediate care facility to ensure that the proper utilization fee has been paid.

(2) The department may require an intermediate care facility to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify that the proper amount of the utilization fee has been paid.

(3) An intermediate care facility shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of resident bed days in the facility. The facility shall maintain these records for a period of at least 5 years from the date a report is due. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 4, Ch. 531, L. 2003.

15-67-203. *(Temporary)* **Statute of limitations.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the quarter for which a report is filed unless the notice of additional utilization fee proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the utilization fee, the intermediate care facility consents in writing to an assessment after the 5-year period, the utilization fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the calendar quarter for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the intermediate care facility files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the intermediate care facility has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed in the event a claim is filed is automatically extended. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 5, Ch. 531, L. 2003.

15-67-204. *(Temporary)* **Penalty and interest for delinquent fee.** If the fee for any intermediate care facility is not paid on or before the due date of the report as provided in 15-67-201, penalty and interest, as provided in 15-1-216, must be added to the fee. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 6, Ch. 531, L. 2003.

15-67-205. *(Temporary)* **Estimated fee on failure to file.** (1) For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of resident bed day use of any intermediate care facility about which information has been obtained, the department may:

(a) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon the matters required to be included in the report;

(b) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(c) take testimony and require production of any other material for its information.

(2) Based on the information provided for in subsection (1), the department shall calculate a fee to be imposed on a facility and shall notify the facility of the amount of the fee pursuant to 15-67-206. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: **En. Sec. 7, Ch. 531, L. 2003.**

15-67-206. *(Temporary)* **Deficiency assessment — penalty and interest — hearing.** (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the intermediate care facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the intermediate care facility may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fee liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the intermediate care facility has requested it, shall grant the intermediate care facility an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the intermediate care facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the intermediate care facility. Penalty and interest must be added to any deficiency assessment and accrues from the date specified in 15-67-201 for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notices. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: **En. Sec. 8, Ch. 531, L. 2003; amd. Sec. 37, Ch. 594, L. 2005.**

15-67-207. *(Temporary)* **Closing agreements.** (1) The director of the department or any person authorized in writing by the director may enter into an agreement with any intermediate care facility relating to the liability of the intermediate care facility with respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive, and except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(a) the agreement may not be reopened or modified as to matters agreed upon by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: **En. Sec. 9, Ch. 531, L. 2003.**

15-67-208. *(Temporary)* **Credit for overpayment — interest.** (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the intermediate care facility and the balance must be refunded to the intermediate care facility or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the intermediate care facility to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than $5.

(4) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 10, Ch. 531, L. 2003.

15-67-209. *(Temporary)* **Warrant for distraint.** If the utilization fee is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. *(Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)*

History: En. Sec. 11, Ch. 531, L. 2003.

CHAPTER 68
SALES TAX

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Part 1
Imposition of Tax

15-68-101. Definitions. For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Accommodations" means short-term rentals or individual sleeping rooms, suites, camping spaces, or other units offered for overnight lodging periods of less than 30 days to the general public for compensation.

(b) Accommodations include units located in property represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, bed and breakfast facility, vacation home, home, apartment, timeshare, room, or rooms rented by or on behalf of the owner or seller.

(c) The term does not include:

(i) a health care facility, as defined in 50-5-101;

(ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3;

(iii) a facility that is used primarily by persons under 18 years of age for camping purposes; or

(iv) rooms or spaces offered separately to the general public for nonlodging purposes, including meeting, conference, or banquet spaces.

(2) (a) "Base rental charge" means the following:

(i) charges for time of use of the rental vehicle and mileage, if applicable;

(ii) charges accepted by the renter for insurance;

(iii) charges for additional drivers or underage drivers; and

(iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the rental vehicle.

(b) The term does not include:

(i) rental vehicle price discounts allowed and taken;

(ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the privilege of operating as a concessionaire at an airport terminal building;

(iii) motor fuel;

(iv) intercity rental vehicle drop charges; or

(v) taxes imposed by the federal government or by state or local governments.

(3) (a) "Campground" means a place used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(4) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose of receiving direct or indirect benefit.

(5) (a) "Motor vehicle" means:

(i) a light vehicle as defined in 61-1-101;

(ii) a motorcycle as defined in 61-1-101;

(iii) a motor-driven cycle as defined in 61-1-101;

(iv) a quadricycle as defined in 61-1-101;

(v) a motorboat or a sailboat as defined in 61-1-101; or

(vi) an off-highway vehicle as defined in 23-2-801 that:

(A) is rented for a period of not more than 30 days;

(B) is rented without a driver, pilot, or operator; and

(C) is designed to transport 15 or fewer passengers.

(b) Motor vehicle includes:

(i) a rental vehicle rented pursuant to a contract for insurance; and

(ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented without a driver, and that is used in the transportation of personal property.

(c) The term does not include farm vehicles, machinery, or equipment.

(6) "Online hosting platform" means any person that provides an online application, software, website, or system through which a seller may advertise, rent, or furnish accommodations or rental vehicles and through which a purchaser may arrange for use of those accommodations or the use or lease of rental vehicles. Online hosting platforms include any online travel company or third-party reservation intermediary that facilitates the sale or use of accommodations or rental vehicles.

(7) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, online hosting platform, or any other legal entity.

(8) "Purchaser" means a person to whom a sale of accommodations or a rental vehicle is made or to whom a service is furnished.

(9) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of the motor vehicle through an arrangement and for consideration.

(10) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(11) (a) "Sale" or "selling" means the rental or use of accommodations or rental vehicles for consideration or the performance of a service for consideration.

(b) The term does not include providing accommodations to victims of domestic violence or human trafficking for grant money received pursuant to 44-4-1505.

(12) (a) "Sales price" applies to the measure subject to the tax under Title 15, chapter 65, and this chapter and means the total amount paid by the purchaser in the form of consideration, including cash, credit, property, and services, for which sales of accommodations, rental vehicles, or services are provided, sold, leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the following:

(i) the seller's cost of the property sold;

(ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) charges by the seller for any services necessary to complete the sale;

(iv) delivery charges; or

(v) installation charges.

(b) The amount received for charges listed in subsections (12)(a)(ii) through (12)(a)(v) are excluded from the sales price if they are separately stated on the invoice, billing, or similar document given to the purchaser and the charge is not subject to subsection (12)(d).

(c) The term does not include:

(i) charges for meals, transportation, entertainment, or any other similar charges; or

(ii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) Unless specifically excluded, sales price includes any separate charge or fee that a purchaser must pay to facilitate the sale or rental of the accommodations or rental vehicle, including a fee or a service, commission, or other charge by an online hosting platform.

(13) "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

(14) "Seller" means a person that makes sales of accommodations or rental vehicles, including an online hosting platform.

(15) (a) "Service" means an activity that is engaged in for another person for consideration and that is distinguished from the sale or lease of accommodations or rental vehicles. Service includes activities performed by an online hosting platform.

(b) In determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties is irrelevant.

(16) "Short-term rental" means any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative, timeshare, or owner-occupied residential home that is offered for a fee for 30 days or less.

(17) "Short-term rental marketplace" means a person that provides a platform through which a seller or the authorized agent of the seller offers a short-term rental to an occupant.

(18) "Timeshare" means any facility for which multiple parties or individuals own a right to use the facility for lodging purposes, and these parties or individuals do not hold claim to ownership of the physical property.

History: En. Sec. 2, Ch. 544, L. 2003; amd. Sec. 16, Ch. 542, L. 2005; amd. Sec. 7, Ch. 484, L. 2021; amd. Sec. 4, Ch. 758, L. 2023; amd. Sec. 2, Ch. 47, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 47, L. 2025. Amendment effective October 1, 2025.

Termination Provision Removed: Section 5, Ch. 605, L. 2025, amended sec. 10, Ch. 758, L. 2023, to remove the June 30, 2027, termination of the amendments made to this section by Ch. 758. Effective May 13, 2025.

15-68-102. Imposition and rate of sales tax and use tax — exceptions. (1) A sales tax of the following percentages is imposed on sales of the following property or services:

(a) 4% on accommodations and campgrounds;

(b) 4% on the base rental charge for rental vehicles.

(2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be applied to the sales price.

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using the following property or services a use tax equal to the following percentages of the value of the property or services:

(i) 4% on accommodations and campgrounds;

(ii) 4% on the base rental charge for rental vehicles.

(b) The use tax is imposed on property or services that were:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an Indian reservation within this state;

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's subsequent use of the property, is subject to the sales tax or use tax; or

(iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

(4) For purposes of this section, the value of property must be determined as of the time of acquisition, introduction into this state, or conversion to use, whichever is latest.

(5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax imposed in subsections (1) and (3).

(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed charge for accommodations or campgrounds.

History: En. Sec. 3, Ch. 544, L. 2003; amd. Sec. 9, Ch. 459, L. 2019.

15-68-103. Presumption of taxability — value — rules. (1) In order to prevent evasion of the sales tax or use tax and to aid in its administration, it is presumed that:

(a) all sales by a person engaging in business are subject to the sales tax or use tax; and

(b) all property bought or sold by any person for delivery into this state is bought or sold for a taxable use within this state.

(2) In determining the amount of use tax due on the use of property or services, it is presumed, in the absence of preponderant evidence of another value, that value means the total amount of property or service or the reasonable value of other consideration paid for the use of the property or service, exclusive of any type of time-price differential. However, in an exchange in which the amount of money paid does not represent the value of the property or service purchased, the use tax must be imposed on the reasonable value of the property or service purchased.

(3) The department shall adopt rules providing for the payment of the sales tax and use tax based on a rounding method.

History: En. Sec. 4, Ch. 544, L. 2003.

15-68-104 and 15-68-105 reserved.

15-68-106. Separate statement of tax — no advertising to absorb or refund tax — rules. (1) If a person collects a tax in excess of the tax imposed by 15-68-102, both the tax and the excess tax must be remitted to the department.

(2) Except as provided in subsection (4), the sales tax must be stated separately for all sales, except for sales from coin-operated or currency-operated machines.

(3) A person may not advertise, hold out, or state to the public or to any customer that the tax imposed by this chapter will be absorbed or refunded.

(4) The department may adopt rules permitting sellers the option of stating sales tax based upon a percentage of taxable sales.

History: En. Sec. 5, Ch. 544, L. 2003.

15-68-107. Liability of user for payment of use tax. (1) A person within this state who uses property is liable to the state for payment of the use tax if the use tax is payable on the value of the property but has not been paid.

(2) The liability imposed by this section is discharged if the buyer has paid the use tax to the seller for payment to the department.

History: En. Sec. 6, Ch. 544, L. 2003.

15-68-108 and 15-68-109 reserved.

15-68-110. Collection of sales tax and use tax — listing of business locations and agents — severability. (1) A person engaging in the business of selling property or services subject to taxation under this chapter shall collect the sales tax from the purchaser and pay the sales tax collected to the department.

(2) A person engaging in business within this state shall, before making any sales subject to this chapter, obtain a seller's permit, as provided in 15-68-401, and at the time of making a sale, whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

(3) The department may authorize the collection of the sales tax imposed by 15-68-102 by any retailer who does not maintain a place of business within this state but who, to the satisfaction of the department, is in compliance with the law. When authorized, the person shall collect the use tax upon all property and services that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

(4) All sales tax and use tax required to be collected and all sales tax and use tax collected by any person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and use tax.

(5) A person engaging in business within this state that is subject to this chapter shall provide to the department:

(a) the names and addresses of all of the person's agents operating within this state; and

(b) the location of each of the person's distribution houses or offices, sales houses or offices, and other places of business within this state.

(6) If any application of this section is held invalid, the application to other situations or persons is not affected.

History: En. Sec. 7, Ch. 544, L. 2003.

15-68-111. Short-term rental marketplace registration — collection of tax. (1) A short-term rental marketplace shall register with the department of revenue for collection, reporting, and payment of the tax provided for in Title 15, chapter 65, and this chapter on short-term rentals due from sellers on any sale facilitated by the short-term rental marketplace.

(2) A short-term rental marketplace shall collect, report, and pay taxes imposed by Title 15, chapter 65, and this chapter.

(3) The tax collected under Title 15, chapter 65, and this chapter is on the sales price, as defined in 15-68-101.

(4) Unless approved to do otherwise by the department, a short-term rental marketplace selling accommodations at two or more short-term rentals shall file a separate return for each separate short-term rental if each separate short-term rental is in a different city, county, or tourism region.

History: En. Sec. 8, Ch. 484, L. 2021.

Part 2
Nontaxable Transactions and Exemptions

15-68-201. Nontaxable transaction certificate — requirements. (1) A nontaxable transaction certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a nontaxable transaction occurs.

(2) A nontaxable transaction certificate must contain the information and be in the form prescribed by the department.

(3) Only a buyer or lessee who has registered with the department and whose seller's permit is valid may execute a nontaxable transaction certificate.

(4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is nontaxable.

History: En. Sec. 8, Ch. 544, L. 2003.

15-68-202. Nontaxable transaction certificate — form. (1) The department shall provide for a uniform nontaxable transaction certificate. A purchaser shall use the certificate when purchasing goods or services for resale or for other nontaxable transactions.

(2) At a minimum, the certificate must provide:

(a) the number of the seller's permit issued to the purchaser as provided in 15-68-401;

(b) the general character of property or service sold by the purchaser in the regular course of business;

(c) the property or service purchased for resale;

(d) the name and address of the purchaser; and

(e) a signature line for the purchaser.

(3) The department shall adopt rules to provide procedures for application for and provision of a certificate to a person engaging in business within this state for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003. The rules adopted by the department must ensure that each person engaging in business within this state for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles

prior to July 1, 2003, that has applied in a timely fashion is issued a certificate for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003.

History: En. Sec. 9, Ch. 544, L. 2003.

15-68-203 through 15-68-205 reserved.

15-68-206. Exemption — government agencies. All sales by or uses by the United States or an agency or instrumentality of the United States are exempt from the sales tax and use tax.

History: En. Sec. 10, Ch. 544, L. 2003.

15-68-207. Exemption — isolated or occasional sale or lease of property. The isolated or occasional sale or lease of property by a person that is not regularly engaged in or that does not claim to be engaged in the business of selling or leasing the same or a similar property is exempt from the sales tax and use tax.

History: En. Sec. 11, Ch. 544, L. 2003.

15-68-208. Nontaxability — sale of property for resale. The sale of property is nontaxable if:

(1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;

(2) the buyer resells the property either by itself or in combination with other property; and

(3) the subsequent sale is in the ordinary course of business and the property will be subject to the sales tax.

History: En. Sec. 12, Ch. 544, L. 2003.

15-68-209. Nontaxability — sale of service for resale. The sale of a service for resale is nontaxable if:

(1) the sale is made to a person who delivers a nontaxable transaction certificate;

(2) the buyer resells the service and separately states the value of the service purchased in the charge for the service in the subsequent sale; and

(3) the subsequent sale is in the ordinary course of business and subject to the sales tax.

History: En. Sec. 13, Ch. 544, L. 2003.

15-68-210. Nontaxability — lease for subsequent lease. The lease of property is nontaxable if:

(1) the lease is made to a lessee who delivers a nontaxable transaction certificate; and

(2) the lessee does not use the property in any manner other than for subsequent lease in the ordinary course of business.

History: En. Sec. 14, Ch. 544, L. 2003.

15-68-211. Nontaxability — use of property for leasing. The value of leased property is not considered in computing the use tax due if the person holding the property for lease:

(1) is engaged in a business that derives a substantial portion of its receipts from leasing or selling property of the type leased;

(2) does not use the property in any manner other than holding it for lease or sale or leasing or selling it either by itself or in combination with other tangible personal property in the ordinary course of business; and

(3) does not use the property in a manner incidental to the performance of a service.

History: En. Sec. 15, Ch. 544, L. 2003.

15-68-212. Nontaxability — nonprofits. The sale of property or of a service is nontaxable if the seller is an organization that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended.

History: En. Sec. 16, Ch. 544, L. 2003.

Part 3 reserved

Part 4
Permits and Certificates

15-68-401. Seller's permit. (1) A person that wishes to engage in business within this state that is subject to this chapter shall obtain a seller's permit before engaging in business within this state.

(2) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a separate, numbered seller's permit for each location in which the applicant maintains an office or other place of business within Montana. A permit is valid until revoked or suspended but is not assignable. A permit is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at all times at the place for which it is issued.

(3) The department shall adopt rules to provide procedures for application for and provision of a seller's permit to a person engaging in business within this state that is subject to this chapter for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003. The rules adopted by the department must ensure that each person engaging in business within this state for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003, is issued a seller's permit for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003. The department may adopt rules providing for seasonal permits.

History: En. Sec. 18, Ch. 544, L. 2003.

15-68-402. Permit application — requirements — place of business — form. (1) (a) A person that wishes to engage in the business of making retail sales or providing services in Montana that are subject to this chapter shall file with the department an application for a permit. If the person has more than one location in which the person maintains an office or other place of business, an application may include multiple locations.

(b) An applicant who does not maintain an office or other place of business and who moves from place to place is considered to have only one place of business and shall attach the permit to the applicant's cart, stand, truck, or other merchandising device.

(2) Each person or class of persons required to file a return under this chapter is required to file an application for a permit.

(3) Each application for a permit must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information that the department may require. The application must be filed by the owner if the owner is a natural person or by a person authorized to sign the application if the owner is a corporation, partnership, limited liability company, or some other business entity.

History: En. Sec. 19, Ch. 544, L. 2003.

15-68-403 and 15-68-404 reserved.

15-68-405. Revocation or suspension of permit — appeal. (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit held by a person that fails to comply with the provisions of this chapter.

(2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant to 15-1-211.

(3) If a permit is revoked, the department may not issue a new permit except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new permit to the applicant.

(4) A person aggrieved by the department's final decision to revoke a permit, as provided in subsection (1), may appeal the decision to the Montana tax appeal board within 30 days after the date on which the department issued its final decision.

History: En. Sec. 20, Ch. 544, L. 2003; amd. Sec. 42, Ch. 142, L. 2021.

15-68-406 through 15-68-409 reserved.

15-68-410. Improper use of subject of purchase obtained with nontaxable transaction certificate — penalty. (1) If a purchaser that uses a nontaxable transaction certificate uses the subject of the purchase for a purpose other than one allowed as nontaxable under this chapter, the use is considered a taxable sale as of the time of first use by the purchaser and the sales price is the price that the purchaser paid. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in the sales price the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the entire amount of the sales price, without deduction of amounts previously received as rentals.

(2) A person that uses a certificate for property that will be used for a purpose other than the purpose claimed is subject to a penalty, payable to the department, of $100 for each transaction in which an improper use of a certificate has occurred.

(3) Upon a showing of good cause, the department may abate or waive the penalty or a portion of the penalty.

History: En. Sec. 21, Ch. 544, L. 2003.

15-68-411. Commingling nontaxable certificate goods. If a purchaser uses a nontaxable transaction certificate with respect to the purchase of fungible goods and commingles these goods with fungible goods that were not purchased with a certificate but that are of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods purchased with the certificate until the quantity of commingled goods sold equals the quantity of goods originally purchased under the certificate.

History: En. Sec. 22, Ch. 544, L. 2003.

Part 5
Returns and Payment

15-68-501. Liability for payment of tax — security for retailer without place of business — penalty. (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the department.

(2) A retailer that does not maintain an office or other place of business within this state is liable for the sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as provided in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise provided in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this state in the same manner as a retailer who maintains an office or other place of business within this state. The seller's permit provided for in 15-68-401 may be canceled at any time if the department considers the security inadequate or believes that the taxes can be collected more effectively in another manner.

(3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses a seller's permit issued by the department. If an agent, canvasser, or employee violates the provisions of this chapter, the person is subject to a fine of not more than $100 for each separate transaction or event.

History: En. Sec. 23, Ch. 544, L. 2003.

15-68-502. Returns — payment — authority of department. (1) (a) Except as provided in subsection (2), on or before the last day of the month following the calendar quarter in which the transaction subject to the tax imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the preceding quarter must be filed with the department.

(b) Each person engaged in business within this state or using property or services within this state that are subject to tax under this chapter shall file a return.

(c) A person making retail sales at two or more places of business shall file a separate return for each separate place of business.

(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the date or dates set by the department.

(3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

(i) a retailer required to collect the tax; and

(ii) a person that:

(A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or use tax; and

(B) has not paid the tax to a retailer required to pay the tax.

(b) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall keep records, render statements, make returns, and comply with the provisions of this chapter and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of this chapter, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(5) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

History: En. Sec. 24, Ch. 544, L. 2003; amd. Sec. 9, Ch. 484, L. 2021.

15-68-503 and 15-68-504 reserved.

15-68-505. Credit for taxes paid on worthless accounts — taxes paid if account collected. (1) Sales taxes paid by a person filing a return under 15-68-502 on sales found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) Bad debts may be deducted within 12 months after the month in which the bad debt has been charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging off of unpaid balances due on accounts as uncollectible or declaring as uncollectible such unpaid balance due on accounts in the case of a seller who is not required to file federal income tax returns.

(3) If an account is subsequently collected, the sales tax must be paid on the amount collected.

(4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable sales within a 12-month period defined by that bad debt.

(5) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any other charges and second to the price of the property or service and sales tax on the property or service, proportionally.

History: En. Sec. 25, Ch. 544, L. 2003.

15-68-506. Credit — out-of-state taxes. If a sales, use, or similar tax has been levied by another state or a political subdivision of another state on property that was leased outside this state but that will be used or consumed in this state and the tax was paid by the current user, the amount of tax paid may be credited against any use tax due this state on the same property. The credit may not exceed the sales tax or use tax due this state.

History: En. Sec. 17, Ch. 544, L. 2003.

15-68-507 through 15-68-509 reserved.

15-68-510. Vendor allowance. (1) A person filing a timely return under 15-68-502 may claim a quarterly vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable to the state.

(2) The allowance may be deducted on the return.

(3) A person that files a return or payment after the due date for the return or payment may not claim a vendor allowance.

History: En. Sec. 26, Ch. 544, L. 2003; amd. Sec. 10, Ch. 459, L. 2019.

15-68-511 reserved.

15-68-512. Security — limitations — sale of security deposit at auction — bond. (1) The department may require a retailer to deposit, with the department, security in a form and amount that the department, by administrative rule, determines is appropriate. The deposit may not be more than twice the estimated average liability for the period for which the return is required to be filed. The amount of security may be increased or decreased by the department, subject to the limitations provided in this section.

(2) (a) If necessary, the department may sell, at public auction, property deposited as security to recover any sales tax or use tax amount required to be collected, including interest and penalties.

(b) Notice of the sale must be served personally upon or sent by certified mail to the person that deposited the security.

(c) After the sale, any surplus above the amount due that is not required as security under this section must be returned to the person that deposited the security.

(3) In lieu of security, the department may require a retailer to file a bond, issued by a surety company authorized to transact business within this state, to guarantee solvency and responsibility.

(4) In addition to the other requirements of this section, the department may require the corporate officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of liability for the payment of the tax due under this chapter.

History: En. Sec. 27, Ch. 544, L. 2003.

15-68-513. Examination of return — adjustments — penalty and interest — delivery of notices and demands. (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to 15-68-502 constitutes the tax to be paid.

(2) (a) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department unless the taxpayer files a timely objection as provided in 15-1-211.

(b) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

(3) If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(4) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address.

(5) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform dispute review procedure provided in 15-1-211.

History: En. Sec. 28, Ch. 544, L. 2003; amd. Sec. 38, Ch. 594, L. 2005.

15-68-514. Penalties and interest for violation. If a person fails to file a return on or before the due date or fails to pay a tax on or before a due date, the person must be assessed penalty and interest as provided in 15-1-216.

History: En. Sec. 29, Ch. 544, L. 2003.

15-68-515 reserved.

15-68-516. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this chapter.

(b) If a tax imposed by this chapter or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

History: En. Sec. 30, Ch. 544, L. 2003.

15-68-517. Interest on deficiency. Interest accrues on unpaid or delinquent taxes as provided in 15-1-216.

History: En. Sec. 31, Ch. 544, L. 2003.

15-68-518 and 15-68-519 reserved.

15-68-520. Limitations. (1) Except in the case of a person that purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of this chapter, a deficiency may not be assessed or collected with respect to a quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date that the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period to which consent was given.

History: En. Sec. 32, Ch. 544, L. 2003.

15-68-521 through 15-68-524 reserved.

15-68-525. Refunds — interest — limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under this chapter must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed $1.

History: En. Sec. 33, Ch. 544, L. 2003.

Parts 6 and 7 reserved

Part 8
General Administration

15-68-801. Administration — rules. The department shall:

(1) administer and enforce the provisions of this chapter;

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of this chapter; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of this chapter.

History: En. Sec. 34, Ch. 544, L. 2003.

15-68-802 through 15-68-804 reserved.

15-68-805. Revocation of corporate license — appeal. (1) If a corporation authorized to do business within this state and required to pay the taxes imposed under this chapter fails to comply with any of the provisions of this chapter or any rule of the department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the corporation has failed to comply with specific statutory provisions or rules.

(2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing the corporation to do business within this state and may issue a new certificate only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under this chapter.

(3) An order authorized in this section may not be made until the corporation is given an opportunity for dispute resolution as provided in 15-1-211.

(4) A final decision of the department may be appealed to the Montana tax appeal board.

History: En. Sec. 35, Ch. 544, L. 2003; amd. Sec. 43, Ch. 142, L. 2021.

15-68-806 and 15-68-807 reserved.

15-68-808. Taxpayer quitting business — liability of successor. (1) (a) All taxes payable under this chapter are due and payable immediately whenever a taxpayer quits business, sells, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

(b) The taxpayer shall make a return and pay the taxes due within 10 days after the taxpayer quits business, sells, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

(2) Except as provided in subsection (4), a person that becomes a successor is liable for the full amount of the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient to pay any tax due until the taxpayer produces either a receipt from the department showing payment in full of any tax due or a statement from the department that tax is not due.

(3) If a tax is due but has not been paid as provided in subsection (1)(b), the successor is liable for the payment of the full amount of tax. The payment of the tax by the successor is considered to be a payment upon the sales price, and if the payment is greater in amount than the sales price, the amount of the difference becomes a debt due to the successor from the taxpayer owing the tax under subsection (1).

(4) (a) A successor is not liable for any tax due from the person that the successor acquired a business or stock of goods from if:

(i) the successor gives written notice to the department of the acquisition; and

(ii) an assessment is not issued by the department against the former operator of the business within 6 months of receipt of the notice from the successor.

(b) If an assessment is issued by the department, a copy of the assessment must also be mailed to the successor, or if an assessment is not mailed to the successor, the successor is not liable for the tax due.

History: En. Sec. 36, Ch. 544, L. 2003.

15-68-809 and 15-68-810 reserved.

15-68-811. Tax as debt. (1) The tax imposed by this chapter and related interest and penalties become a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(2) (a) This section applies to those corporate officers, directors, or shareholders required by the department to personally guarantee the payment of the taxes for their corporations.

(b) The officer or employee of a corporation whose duty it is to collect, truthfully account for, and pay to the state the amounts imposed by this chapter and who fails to pay the tax is liable to the state for the amounts imposed by this chapter and the penalty and interest due on the amounts.

History: En. Sec. 37, Ch. 544, L. 2003.

15-68-812 through 15-68-814 reserved.

15-68-815. Information — confidentiality — agreements with another state. (1) (a) Except as provided in subsections (2) through (4), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known information that is disclosed in a report or return required to be filed under this chapter or

information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity and content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

(2) (a) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(b) In order to implement the provisions of this chapter, the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by this chapter, the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309.

History: En. Sec. 38, Ch. 544, L. 2003; amd. Sec. 33, Ch. 268, L. 2013.

15-68-816 through 15-68-819 reserved.

15-68-820. Sales tax and use tax proceeds. (1) Except as provided in subsections (2) through (6), all money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.

(3) Until December 31, 2024, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:

(a) 20% in the account established in 22-3-1303 for construction of the Montana heritage center; and

(b) 5% in the account established in 22-3-1307 for historic preservation grants.

(4) Starting January 1, 2025, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited or distributed as follows:

(a) 6% in the account established in 22-3-1304 for operation and maintenance of the Montana heritage center;

(b) 6% distributed as provided in subsection (5);

(c) 6% in the account established in 22-3-1307 for historic preservation grants; and

(d) 7% in the account established in 17-7-209.

(5) (a) Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsection (5)(b) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 1% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 1% that was paid with federal funds to the department of administration for return to the federal government and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.

(b) The balance of the tax proceeds received each reporting period and not distributed to agencies that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to the state-tribal economic development commission as follows:

(i) 7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(ii) 68.5% to be used directly by the department of commerce;

(iii) (A) except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of commerce to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(B) if 24% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(iv) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region.

(6) The tax proceeds received that are transferred to a state special revenue account pursuant to subsection (5)(b) are allocated to the entities.

History: En. Sec. 39, Ch. 544, L. 2003; amd. Sec. 14, Ch. 475, L. 2007; amd. Sec. 4, Ch. 430, L. 2015; amd. Sec. 14, Ch. 459, L. 2019; amd. Sec. 1, Ch. 8, L. 2021; amd. Sec. 2, Ch. 67, L. 2023.

CHAPTER 69
RESERVED

CHAPTER 70
GASOLINE AND VEHICLE FUELS TAXES

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15-70-701. Definitions.
15-70-702. Alternative fuel dealer's license.
15-70-703. Application for license.
15-70-704. Bonding, release of surety, and additional bond.
15-70-705. Issuance of license — grounds for refusal — hearing.
15-70-706. Revocation of license — notice.
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15-70-711. Tax on compressed natural gas, hydrogen fuel, liquefied petroleum gas, and alternative fuels.
15-70-712. Recordkeeping.
15-70-713. Examination of records — enforcement — reciprocity.
15-70-714. Returns required — payment.
15-70-715. Penalties for refusal or failure to file return or pay tax when due.
15-70-716. Deficiency — penalty.
15-70-717. Determination if no return made — penalty — presumption.
15-70-718. Fraudulent return — penalty.
15-70-719. Warrant for distraint.
15-70-720. Statute of limitations.

Part 8 — Electric Vehicles

15-70-801. Definitions.
15-70-802. Public charging station tax.
15-70-803. Installation of electric meters.
15-70-804. Public charging station rate disclosure.
15-70-805. Public charging station operator statements and tax payment — rulemaking.

Chapter Cross-References

Highway revenue nondiversion, Art. VIII, sec. 6, Mont. Const.

Interstate cooperative agreements for collection of taxes and fees, 60-2-311.

Part 1
General Provisions

15-70-101. Disposition of funds. (1) Those funds allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the provisions of 17-2-124, be paid by the department from the local government road construction and maintenance restricted account provided for in 15-70-128 to the cities, towns, counties, and consolidated city-county governments.

(2) The allocated funds must be distributed as follows:

(a) The amount of $150,000 must be designated for the purposes and functions of the Montana local technical assistance transportation program in Bozeman.

(b) Three-eighths of the remaining amount must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

(c) The remaining funds must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

(3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated city-county government, each entity must be considered to have separate city and county boundaries. The city limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on the location of the urban area have been approved by the department of transportation and must be used to determine city and county populations and road mileages in the following manner:

(i) Percentage factors must be calculated to determine separate populations for the city and rural county by using the last official decennial federal census population figures that recognized an incorporated city and the rural county. The factors must be based on the ratio of

the city to the rural county population, considering the total population in the county minus the population of any other incorporated city or town in the county.

(ii) The city and county populations must be calculated by multiplying the total county population, as determined by the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census, minus the population of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

(b) The amount allocated by this method for the city and the county must be combined, and single monthly payments must be made to the consolidated city-county government.

(4) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, county, or consolidated city-county government might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the primary or secondary highway system or urban extensions to those systems. The governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure.

(5) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of the amounts provided in 7-5-2301 and 7-5-4302.

(6) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined annually for counties and biennially for cities according to the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(7) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this section may not be used for the purchase of capital equipment.

(9) Unused balances remaining in the former 15-70-127 bridge and road safety and accountability restricted account as of June 30, 2023, must be distributed in accordance with subsections (2)(b) and (2)(c) on September 1, 2023.

History: En. Sec. 11, Ch. 162, L. 1955; amd. Sec. 213, Ch. 147, L. 1963; amd. Sec. 2, Ch. 6, Ex. L. 1967; amd. Sec. 2, Ch. 355, L. 1969; amd. Sec. 1, Ch. 384, L. 1971; amd. Sec. 1, Ch. 338, L. 1973; amd. Sec. 1, Ch. 330, L. 1974; amd. Sec. 2, Ch. 514, L. 1975; amd. Sec. 3, Ch. 34, L. 1977; R.C.M. 1947, 84-1840; amd. Sec. 4, Ch. 632, L. 1979; amd. Sec. 2, Ch. 238, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 3, Ch. 624, L. 1983; amd. Sec. 1, Ch. 257, L. 1985; amd. Sec. 12, Ch. 703, L. 1985; amd. Sec. 1, Ch. 292, L. 1987; amd. Sec. 11, Ch. 557, L. 1987; amd. Sec. 1, Ch. 82, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 18, Ch. 455, L. 1993; amd. Sec. 1, Ch. 605, L. 1993; amd. Sec. 1, Ch. 10, Sp. L. November 1993; amd. Sec. 21, Ch. 18, L. 1995; amd. Sec. 10, Ch. 509, L. 1995; amd. Sec. 1, Ch. 239, L. 1997; amd. Sec. 1, Ch. 415, L. 1999; amd. Sec. 12, Ch. 515, L. 1999; amd. Sec. 1, Ch. 158, L. 2001; amd. Sec. 1, Ch. 594, L. 2003; amd. Sec. 1, Ch. 22, L. 2007; amd. Sec. 15, Ch. 475, L. 2007; amd. Sec. 1, Ch. 170, L. 2013; amd. Sec. 6, Ch. 267, L. 2017; amd. Sec. 2, Ch. 123, L. 2023.

Cross-References

Highway revenue nondiversion, Art. VIII, sec. 6, Mont. Const.
Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.
Classification of municipalities, 7-1-4111.
Disposition of gasoline and vehicle fuels taxes, 15-70-101.
Allocation of portion of tax to fund highway system, 15-70-126.
Allocation of portion of aviation fuel tax to Department of Transportation, 15-70-403, 67-1-301.
Distribution of funds allocated to Department of Transportation, 60-3-201.

15-70-102. Allocation of funds — participation in railroad grade crossing protection. (1) The amount determined necessary may be allocated from the highway restricted account provided for in 15-70-126 for each fiscal year for expenditures and commitments made for participation by the department of transportation with railroads in construction of railroad grade crossing protection on any public highway or road, except those designated on the national, primary, or urban highway systems, as defined in 60-1-103, within the state. The department of transportation shall select those grade crossings in the state that, in the opinion of the department, are most in need of additional crossing protection and shall finance the cost of the improvements solely from this allocation.

(2) Signal protection provided under this section is limited to electric or automatic flashing lights or gates, depending on the amount and nature of the hazards present at the crossing, and participation in construction of the signals must be on the same basis and under the same standards as are applicable and used in connection with protection of grade crossings on commission-designated highway systems, as defined in 60-1-103, within the state.

(3) In addition to the funds allocated, counties and cities may authorize the use of funds available to counties and cities under the provisions of 15-70-101 for participation in the installation in grade crossing protection within the county or city.

History: En. 84-1840.1 by Sec. 1, Ch. 399, L. 1973; R.C.M. 1947, 84-1840.1; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 11, Ch. 509, L. 1995; amd. Sec. 7, Ch. 267, L. 2017; amd. Sec. 1, Ch. 299, L. 2019; amd. Sec. 1, Ch. 133, L. 2023.

15-70-103. Time of mailing and filing. (1) Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail shall be deemed filed and received by this state on the date shown by the post-office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance, or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such nonreceipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within 30 days after written notification is given to the sender by the state of its nonreceipt of such claim, statement, remittance, or other document.

(2) If any claim, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States post office of such registration, certification, or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was mailed to the addressee, and the date of registration, certification, or certificate shall be deemed the postmarked date.

(3) If the date for filing any claim, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, the filing shall be considered timely if done on the next business day. Such reports shall be considered filed or received on the date or as provided in this chapter.

History: Ap. p. Sec. 12, Ch. 369, L. 1969; Sec. 84-1856, R.C.M. 1947; Ap. p. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; Sec. 84-1835, R.C.M. 1947; R.C.M. 1947, 84-1835(part (a)), 84-1856.

15-70-104. Rules to be established by department. (1) The department of transportation shall adopt, publish, and enforce the rules consistent with and necessary for carrying out the provisions of this chapter.

(2) The department may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of parts 4 and 7 and the International Fuel Tax Agreement authorized by 15-70-121.

History: (1)En. Sec. 17, Ch. 369, L. 1969; amd. Sec. 100, Ch. 516, L. 1973; Sec. 84-1861, R.C.M. 1947; (2) En. Sec. 9, Ch. 162, L. 1955; amd. Sec. 1, Ch. 106, L. 1967; amd. Sec. 85, Ch. 516, L. 1973; amd. Sec. 2, Ch. 34, L. 1977; Sec. 84-1838, R.C.M. 1947; R.C.M. 1947, 84-1838(part), 84-1861; amd. Sec. 3, Ch. 111, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 18, Ch. 405, L. 1995; amd. Sec. 1, Ch. 236, L. 1997; amd. Sec. 4, Ch. 220, L. 2015.

15-70-105. Writeoff of collection of tax, penalty, or interest — rules. (1) (a) The department of transportation may write off the collection of any tax, penalty, or interest due to

the state under this chapter whenever the department determines that it is not cost-effective for the department to attempt to collect the tax, penalty, or interest.

(b) The department shall establish procedures to determine the cost-effectiveness of collecting the tax, penalty, or interest.

(c) If the department writes off the collection of any tax, penalty, or interest, the department shall place in the taxpayer's file a written justification for the writeoff that includes a determination that attempted collection is not cost-effective.

(2) The department shall adopt rules to establish the procedures to carry out the purposes of this section.

History: En. Sec. 3, Ch. 428, L. 1993.

15-70-106 and 15-70-107 reserved.

15-70-108. Payment of taxes by negotiable instrument. The department of transportation is not bound by conditions pertaining to endorsement by the department that are placed on a negotiable instrument by the maker or drawer, tendered to the department for the payment of a tax liability or other liabilities, unless:

(1) the debtor and the department have previously entered into a written agreement that specifies the amount of the debtor's liability; and

(2) the amount tendered is in accordance with the written agreement.

History: En. Sec. 6, Ch. 158, L. 1995.

15-70-109 reserved.

15-70-110. Authority to collect delinquent motor fuel taxes — offset — hearing. (1) The department of transportation shall collect motor fuel taxes that are delinquent as determined under this chapter.

(2) To collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a hearing on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

(5) The department shall provide the taxpayer with notice of the right to request a hearing under the contested case procedures of Title 2, chapter 4, on the matter of the offset action or the department's intent to file a claim on behalf of the taxpayer. A request for hearing must be made within 30 days of the date of the notice. If a hearing is requested, it must be held within 20 days of the request.

History: En. Sec. 7, Ch. 158, L. 1995.

15-70-111. Judicial review and appeals. Any final written determination by the director of the department of transportation under this chapter may be appealed to the Montana tax appeal board which may, upon the record of a hearing, affirm, modify, or reverse the decision of the department. Any party aggrieved by the decision of the board may petition for judicial review by the district court of Lewis and Clark County, and an appeal may be taken from the judgment of the district court to the supreme court.

History: En. Sec. 12, Ch. 162, L. 1955; amd. Sec. 86, Ch. 516, L. 1973; amd. Sec. 5, Ch. 155, L. 1977; R.C.M. 1947, 84-1841; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 44, Ch. 142, L. 2021.

Cross-References

Montana Tax Appeal Board, Title 15, ch. 2.

Judicial review of contested cases, 15-2-303.

15-70-112. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means the department of transportation as provided for in 2-15-2501.

(2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) "Taxes" means the taxes provided for in this chapter.

(4) "Total remittance" means taxes, interest, and penalties collected under this chapter and cleanup fees collected by the department as provided in 75-11-314.

History: En. Sec. 4, Ch. 561, L. 1995; amd. Sec. 1, Ch. 77, L. 1999.

15-70-113. Total remittance payable by electronic funds transfer. (1) Total remittance due the state may be paid by electronic funds transfer.

(2) If the payment of total remittance is by electronic funds transfer under this section and the due date falls on a Saturday, Sunday, or legal holiday, the payment must be made on the first business day following the Saturday, Sunday, or legal holiday.

(3) If the payment of the tax due on gasoline or special fuel pursuant to 15-70-410 is made by electronic funds transfer, the payment due date is 5 days after the 25th day of each calendar month.

History: En. Sec. 5, Ch. 561, L. 1995; amd. Sec. 2, Ch. 77, L. 1999; amd. Sec. 1, Ch. 110, L. 2001; amd. Sec. 5, Ch. 220, L. 2015.

15-70-114. Electronic filing of tax returns and required information. The department may require a person, including an importer, exporter, common carrier, private carrier, or contract carrier, who receives or dispenses fuel and who is licensed or not licensed under this chapter, to file tax returns and information required by the department in an approved, computer-generated, magnetic media data format.

History: En. Sec. 6, Ch. 561, L. 1995; amd. Sec. 3, Ch. 77, L. 1999.

15-70-115. Rules. The department shall adopt rules necessary to implement 15-70-112 through 15-70-115, including but not limited to rules:

(1) coordinating the filing of tax returns by electronic means with the payment of total remittance by electronic funds transfer;

(2) specifying the form and content of electronic funds transfer messages in order to ensure the proper receipt and crediting of the payment of total remittance; and

(3) specifying the form and content of information required by the department in an approved, computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

History: En. Sec. 7, Ch. 561, L. 1995; amd. Sec. 4, Ch. 77, L. 1999.

15-70-116 through 15-70-120 reserved.

15-70-121. International Fuel Tax Agreement. (1) The department of transportation may enter into the International Fuel Tax Agreement for audits, exchange of information, and collection and distribution of motor fuel taxes pertaining to users of motor fuel in fleets of motor vehicles operated or intended to operate across jurisdictional boundaries. The International Fuel Tax Agreement is not effective unless it is in writing and is signed by the department and the department has adopted rules implementing the agreement.

(2) The agreement may determine:

(a) the base jurisdiction for motor fuel users;

(b) motor fuel user records requirements;

(c) audit procedures;

(d) procedures for the exchange of information;

(e) persons eligible for tax licensing;

(f) the definition of qualified motor vehicles;

(g) bonding requirements;

(h) reporting requirements and periods;

(i) uniform penalty and interest rates for late reporting or payment of taxes;

(j) methods for collecting and forwarding of motor fuel taxes and penalties to another jurisdiction; and

(k) other provisions to facilitate the administration of the agreement.

(3) The department may, as required by the terms of the agreement, forward to officers of another jurisdiction any information in its possession relative to the manufacture, receipt, sale, use, transportation, or shipment of motor fuel. The department may disclose to officers of another jurisdiction the location of offices, motor vehicles, and other real and personal property of users of motor fuel.

(4) The agreement may provide each jurisdiction authority to audit the records of persons based in the jurisdiction to determine if the motor fuel taxes due each jurisdiction are properly reported and paid. Each jurisdiction shall forward the findings of the audits performed on persons based in the jurisdiction to each jurisdiction in which the person has taxable use of motor fuel. For a person not based in Montana who has taxable use of motor fuel in Montana, the department may serve the audit findings received from another jurisdiction in the form of an assessment on the person, as though an audit was conducted by the department.

(5) The agreement entered into pursuant to this section does not preclude the department from auditing the records of any person covered by the provisions of this chapter.

(6) If the specific requirements of the agreement, as the agreement reads on the effective date of adoption by the department, differ from the general provisions of this chapter or other rules promulgated by the department, the rules implementing the cooperative agreement prevail.

(7) The legal remedies for a person served with an order or assessment under this section are as prescribed in this chapter.

(8) As used in this section:

(a) "agreement" means the International Fuel Tax Agreement provided for in this section; and

(b) "motor fuel" includes gasoline and special fuel as defined in 15-70-401.

History: En. Secs. 1, 2, Ch. 111, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 6, Ch. 220, L. 2015.

15-70-122. Collection of fuel tax. The department of transportation may establish procedures under the International Fuel Tax Agreement to provide for the billing, collection, and administration of fuel taxes for those owners who proportionally register their fleet vehicles through the department under 61-3-711 through 61-3-733.

History: En. Sec. 5, Ch. 111, L. 1989; amd. Secs. 3, 8, Ch. 512, L. 1991.

15-70-123. Report by unlicensed fuel dealer — definition — penalty. (1) The department of transportation may require a fuel dealer who is not licensed by the department under Title 15, chapter 70, to file, within 30 days of the end of a quarter, on a form prescribed by the department a report of the amount of fuel received and sold during the quarter. The report must also contain other information as required by the department.

(2) As used in this section, "fuel dealer" means a dealer who:

(a) is directly or indirectly engaged in delivering, transporting, or distributing gasoline, aviation gasoline, special fuel, or alternative fuel in this state; or

(b) offers or advertises to sell, refine, manufacture, or store gasoline, aviation gasoline, special fuel, or alternative fuel in this state.

(3) A fuel dealer who fails to file the report required by subsection (1) shall be fined $50 for the first offense, $75 for the second offense, and $100 for the third and each subsequent offense.

History: En. Sec. 1, Ch. 34, L. 1993; amd. Sec. 1, Ch. 340, L. 1999; amd. Sec. 1, Ch. 399, L. 2023.

15-70-124. Agreements with other governmental entities relating to collection of certain fuel taxes. (1) The department of transportation may enter into agreements relating to the administration and taxation of gasoline, special fuels, and alternative fuels with state agencies of this state and other states, agencies of the federal government, and agencies of foreign governments and provinces.

(2) The agreements may cover audits, exchange of information, licensure of sellers and users, distribution, and other matters that the department considers necessary for the administration of the taxation of gasoline, special fuels, and alternative fuels. In an agreement, the department may not delegate powers to another governmental entity that involve levying fines, forfeitures, or penalties or that allow the other governmental entity to revoke or otherwise impair a license or permit issued by the department.

History: En. Sec. 1, Ch. 438, L. 1993; amd. Sec. 2, Ch. 399, L. 2023.

15-70-125. Highway nonrestricted account. There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice's court, must, in accordance with the provisions of 17-2-124, be placed in the highway nonrestricted account. All interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

History: En. Sec. 12, Ch. 509, L. 1995; amd. Sec. 83, Ch. 42, L. 1997; amd. Sec. 12, Ch. 422, L. 1997; amd. Sec. 13, Ch. 515, L. 1999; amd. Sec. 16, Ch. 475, L. 2007; amd. Sec. 7, Ch. 6, Sp. L. November 2017.

15-70-126. Highway restricted account. (1) There is a highway restricted account in the state special revenue fund provided for in 17-2-102. All interest and income earned on the account must, in accordance with the provisions of 17-2-124, be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

(2) Subject to subsection (4) and 15-70-403(2), all revenue sources provided for in Article VIII, section 6, of the Montana constitution must be deposited in the account, including but not limited to:

(a) all taxes collected under this chapter except as provided in 15-70-403(2)(b), (2)(c), (3)(b), and (3)(c);

(b) taxes collected for improperly imported fuel as provided in 15-70-419;

(c) fees collected for temporary special fuel permits as provided in 15-70-456;

(d) GVW license fees as provided in 61-10-225 and 61-10-226; and

(e) electric vehicle registration fees as provided in 61-3-572.

(3) Except as provided in subsection (5), the money in the account is restricted and may be used only for the purpose of providing funding:

(a) for statutory refunds and adjustments;

(b) for debt service on highway revenue bonds;

(c) to the department for distribution to local governments as provided in 15-70-101;

(d) to the department for railroad grade crossing protection as provided in 15-70-102;

(e) until June 30, 2018, to the department of justice for expenses of the motor vehicle division;

(f) for gasoline tax allocations as provided in 60-3-201;

(g) to the department for administration of the motor carrier services functions;

(h) to the department for the highways in this state selected and designated by the transportation commission provided for in 2-15-2502;

(i) to the department for the collection of fuel taxes;

(j) for driver education, which may not exceed $10,000; and

(k) for tourist promotion, which may not exceed $10,000.

(4) (a) The portion of money collected from all revenue sources provided for in Article VIII, section 6, of the Montana constitution on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102.

(b) The department is authorized to maintain a suspense account for gasoline and special fuel tax refunds and adjustments.

(5) The money in the account may be appropriated for purposes other than those listed in subsection (3) by a three-fifths vote of the members of each house of the legislature.

History: En. Sec. 1, Ch. 267, L. 2017; amd. Secs. 27, 28, Ch. 384, L. 2017; amd. Sec. 3, Ch. 164, L. 2023.

15-70-127. Repealed. Sec. 8, Ch. 123, L. 2023.

History: En. Sec. 2, Ch. 267, L. 2017; amd. Sec. 28, Ch. 384, L. 2017.

15-70-128. Local government road construction and maintenance restricted account — statutory appropriation. (1) There is a local government road construction and maintenance restricted account in the state special revenue fund provided for in 17-2-102 to provide funding to cities, towns, counties, and consolidated city-county governments for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, and bridges. The funds in this account are statutorily appropriated, as provided in 17-7-502, to the department of transportation for distribution as provided in 15-70-101.

(2) All interest and income earned on the account must, in accordance with the provisions of 17-2-124, be deposited to the credit of the account, and any unexpended balance in the account must remain in the account. Revenue from the gasoline and special fuel taxes must be deposited in the account pursuant to 15-70-403(2)(c) and (3)(c).

(3) The money in the account is restricted as provided in Article VIII, section 6, of the Montana constitution.

History: En. Sec. 1, Ch. 123, L. 2023.

15-70-129 reserved.

15-70-130. Repealed. Sec. 8, Ch. 123, L. 2023.
History: En. Sec. 3, Ch. 267, L. 2017.

15-70-131. Securing access to federal expenditures to repair Montana roads and bridges. (1) There is a securing access to federal expenditures to repair Montana roads and bridges account in the state special revenue fund provided for in 17-2-102.

(2) Funds in this account are statutorily appropriated, as provided in 17-7-502, to the department of transportation for:

(a) providing state match for additional federal funds allocated to the department through federal redistribution; and

(b) providing state match for discretionary grants awarded to the department.

(3) (a) Total expenditures for state match authorized under this section may not exceed $15 million in a fiscal year.

(b) Expenditures made pursuant to this section must be for construction and reconstruction prioritized by the transportation commission pursuant to 60-2-110.
History: En. Sec. 1, Ch. 49, L. 2023.

15-70-132. Local road and bridge account — appropriation. (1) There is a local road and bridge account in the state special revenue fund established in 17-2-102. All funds received pursuant to section 4, Chapter 698, Laws of 2023, must be deposited in the account.

(2) Money deposited in the account is statutorily appropriated as provided in 17-7-502 to the department of transportation and, except as provided in subsection (3), may be used for:

(a) funding or providing the state matching source for the reconstruction and repair of:

(i) off-system bridges;

(ii) secondary highway system routes;

(iii) urban highway system routes; or

(b) providing a state matching source, at the discretion of the department, for discretionary grants for road and bridge repair or reconstruction awarded to local governments.

(3) The amount of $20 million deposited in the account must be distributed pursuant to section 2, Chapter 698, Laws of 2023, by September 1, 2023.
History: En. Sec. 1, Ch. 698, L. 2023.

Part 2
Basic Gasoline License Tax
(Renumbered, Repealed, and Terminated)

15-70-201. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 2, Ch. 369, L. 1969; amd. Sec. 1, Ch. 13, L. 1971; amd. Sec. 1, Ch. 204, L. 1971; R.C.M. 1947, 84-1846; amd. Sec. 1, Ch. 576, L. 1979; amd. Sec. 1, Ch. 627, L. 1979; amd. Sec. 1, Ch. 514, L. 1983; amd. Sec. 1, Ch. 697, L. 1985; amd. Sec. 4, Ch. 220, L. 1987; amd. Sec. 1, Ch. 8, L. 1989; amd. Sec. 1, Ch. 231, L. 1993; amd. Sec. 1, Ch. 642, L. 1993; amd. Sec. 1, Ch. 158, L. 1995; amd. Sec. 2, Ch. 236, L. 1997; amd. Sec. 2, Ch. 461, L. 1999; amd. Sec. 1, Ch. 568, L. 2001; amd. Sec. 38, Ch. 114, L. 2003; amd. Sec. 3, Ch. 452, L. 2005; amd. Sec. 3, Ch. 100, L. 2007.

15-70-202. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 13, Ch. 369, L. 1969; amd. Sec. 98, Ch. 516, L. 1973; R.C.M. 1947, 84-1857; amd. Sec. 1, Ch. 609, L. 1979; amd. Sec. 2, Ch. 514, L. 1983; amd. Sec. 2, Ch. 8, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 2, Ch. 231, L. 1993; amd. Sec. 3, Ch. 236, L. 1997; amd. Sec. 1, Ch. 37, L. 1999; amd. Sec. 1, Ch. 142, L. 2001; amd. Sec. 2, Ch. 568, L. 2001; amd. Sec. 4, Ch. 100, L. 2007.

15-70-203. Repealed. Sec. 5, Ch. 37, L. 1999.
History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(6); amd. Sec. 1, Ch. 205, L. 1989; amd. Sec. 8, Ch. 512, L. 1991.

15-70-204. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 3, Ch. 369, L. 1969; amd. Sec. 1, Ch. 202, L. 1971; amd. Sec. 2, Ch. 204, L. 1971; amd. Sec. 90, Ch. 516, L. 1973; amd. Sec. 3, Ch. 514, L. 1975; amd. Sec. 5, Ch. 390, L. 1977; R.C.M. 1947, 84-1847; amd. Sec. 2, Ch. 576, L. 1979; amd. Sec. 2, Ch. 632, L. 1979; amd. Sec. 6, Ch. 274, L. 1981; amd. Sec. 1, Ch. 624, L. 1983; amd. Sec. 12, Ch. 649, L. 1983; amd. Sec. 1, Ch. 20, Sp. L. June 1986; amd. Sec. 1, Ch. 30, L. 1987; amd. Sec. 3, Ch. 8, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 3, Ch. 231, L. 1993; amd. Sec. 2, Ch. 605, L. 1993; amd. Secs. 2, 3, Ch. 642, L. 1993; amd. Sec. 1, Ch. 585, L. 1999; amd. Sec. 1, Ch. 8, Sp. L. May 2000; amd. Sec. 1, Ch. 404, L. 2001; amd. Sec. 3, Ch. 568, L. 2001; amd. Sec. 4, Ch. 452, L. 2005; amd. Sec. 5, Ch. 100, L. 2007; amd. Sec. 1, Ch. 322, L. 2009.

15-70-205. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 5, Ch. 369, L. 1969; amd. Sec. 4, Ch. 204, L. 1971; amd. Sec. 91, Ch. 516, L. 1973; R.C.M. 1947, 84-1849; amd. Sec. 1, Ch. 565, L. 1987; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 1, Ch. 521, L. 1991; amd. Secs. 4, 5, Ch. 642, L. 1993; amd. Sec. 2, Ch. 158, L. 1995; amd. Sec. 5, Ch. 77, L. 1999; amd. Sec. 2, Ch. 585, L. 1999; amd. Sec. 2, Ch. 8, Sp. L. May 2000; amd. Sec. 2, Ch. 404, L. 2001.

15-70-206. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 7, Ch. 369, L. 1969; amd. Sec. 5, Ch. 204, L. 1971; amd. Sec. 93, Ch. 516, L. 1973; R.C.M. 1947, 84-1851; amd. Sec. 8, Ch. 512, L. 1991.

15-70-207. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 9, Ch. 369, L. 1969; amd. Sec. 6, Ch. 204, L. 1971; amd. Sec. 95, Ch. 516, L. 1973; R.C.M. 1947, 84-1853; amd. Sec. 8, Ch. 512, L. 1991.

15-70-208. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Secs. 6, 8, Ch. 369, L. 1969; amd. Secs. 92, 94, Ch. 516, L. 1973; R.C.M. 1947, 84-1850, 84-1852; amd. Sec. 30, Ch. 581, L. 1979; amd. Sec. 1, Ch. 16, L. 1983; amd. Sec. 8, Ch. 512, L. 1991.

15-70-209. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 10, Ch. 369, L. 1969; amd. Sec. 96, Ch. 516, L. 1973; R.C.M. 1947, 84-1854; amd. Sec. 4, Ch. 8, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 2, Ch. 521, L. 1991; amd. Sec. 4, Ch. 231, L. 1993; amd. Sec. 2, Ch. 340, L. 1999.

15-70-210. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 14, Ch. 369, L. 1969; amd. Sec. 99, Ch. 516, L. 1973; R.C.M. 1947, 84-1858(part); amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 3, Ch. 340, L. 1999; amd. Sec. 1, Ch. 120, L. 2001.

15-70-211. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 14, Ch. 369, L. 1969; amd. Sec. 99, Ch. 516, L. 1973; R.C.M. 1947, 84-1858(part); amd. Sec. 38, Ch. 439, L. 1981; amd. Sec. 8, Ch. 512, L. 1991.

15-70-212. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 16, Ch. 369, L. 1969; R.C.M. 1947, 84-1860.

15-70-213 through 15-70-220 reserved.

15-70-221. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(1); amd. Sec. 2, Ch. 627, L. 1979; amd. Sec. 6, Ch. 274, L. 1981; amd. Sec. 13, Ch. 649, L. 1983; amd. Sec. 5, Ch. 8, L. 1989; amd. Sec. 1, Ch. 562, L. 1989; amd. Sec. 5, Ch. 231, L. 1993; amd. Sec. 1, Ch. 428, L. 1993; amd. Secs. 6, 7, Ch. 642, L. 1993; amd. Sec. 4, Ch. 340, L. 1999; amd. Sec. 3, Ch. 585, L. 1999; amd. Sec. 3, Ch. 404, L. 2001; amd. Sec. 6, Ch. 100, L. 2007; amd. Sec. 1, Ch. 22, L. 2009.

15-70-222. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(part); amd. Sec. 3, Ch. 627, L. 1979; amd. Sec. 6, Ch. 8, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 3, Ch. 158, L. 1995.

15-70-223. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(part); amd. Sec. 4, Ch. 627, L. 1979; amd. Sec. 1, Ch. 356, L. 1989; amd. Sec. 1, Ch. 67, L. 1991; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 2, Ch. 245, L. 1993; amd. Sec. 2, Ch. 37, L. 1999; amd. Sec. 3, Ch. 461, L. 1999.

15-70-224. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(part); amd. Sec. 5, Ch. 627, L. 1979; amd. Sec. 5, Ch. 340, L. 1999.

15-70-225. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(part); amd. Sec. 6, Ch. 627, L. 1979; amd. Sec. 2, Ch. 562, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 8, Ch. 642, L. 1993; amd. Sec. 6, Ch. 340, L. 1999; amd. Sec. 2, Ch. 110, L. 2001.

15-70-226. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 11, Ch. 369, L. 1969; amd. Sec. 2, Ch. 13, L. 1971; amd. Sec. 7, Ch. 204, L. 1971; amd. Sec. 1, Ch. 400, L. 1971; amd. Sec. 1, Ch. 200, L. 1973; amd. Sec. 97, Ch. 516, L. 1973; amd. Sec. 1, Ch. 80, L. 1974; R.C.M. 1947, 84-1855(part); amd. Sec. 7, Ch. 627, L. 1979; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 4, Ch. 158, L. 1995.

15-70-227 through 15-70-230 reserved.

15-70-231. Renumbered 15-70-440. Sec. 41, Ch. 220, L. 2015.

15-70-232. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 15, Ch. 369, L. 1969; R.C.M. 1947, 84-1859; amd. Sec. 185, Ch. 56, L. 2009.

15-70-233. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 6, Ch. 236, L. 1997; amd. Sec. 1, Ch. 366, L. 2005.

15-70-234. Renumbered 15-70-450. Sec. 41, Ch. 220, L. 2015.

15-70-235. Renumbered 15-70-451. Sec. 41, Ch. 220, L. 2015.

15-70-236. Renumbered 15-70-452. Sec. 41, Ch. 220, L. 2015.

15-70-237 through 15-70-240 reserved.

15-70-241. Terminated. Sec. 39(5), Ch. 15, Sp. L. July 1992.
History: En. Sec. 16, Ch. 15, Sp. L. July 1992.

15-70-242. Repealed. Sec. 40, Ch. 220, L. 2015.
History: En. Sec. 1, Ch. 115, L. 2001.

15-70-243 and 15-70-244 reserved.

15-70-245. Repealed. Sec. 18, Ch. 452, L. 2005.
History: En. Sec. 4, Ch. 568, L. 2001.

Part 3
Special Fuels Use Tax
(Renumbered, Repealed, and Terminated)

15-70-301. Renumbered 15-70-401. Sec. 41, Ch. 220, L. 2015.

15-70-302. Repealed. Sec. 8, Ch. 188, L. 2013.
History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(a); amd. Sec. 1, Ch. 599, L. 1979; amd. Sec. 1, Ch. 222, L. 1985; amd. Sec. 4, Ch. 111, L. 1989; amd. Sec. 2, Ch. 547, L. 1989; amd. Sec. 1, Ch. 157, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 2, Ch. 525, L. 1993; amd. Sec. 3, Ch. 10, Sp. L. November 1993; amd. Sec. 2, Ch. 43, L. 1995; amd. Sec. 1, Ch. 384, L. 2005; amd. Sec. 2, Ch. 322, L. 2007.

15-70-303. Repealed. Sec. 8, Ch. 188, L. 2013.
History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(b), (c); amd. Sec. 2, Ch. 599, L. 1979; amd. Sec. 3, Ch. 547, L. 1989; amd. Sec. 3, Ch. 525, L. 1993; amd. Sec. 4, Ch. 10, Sp. L. November 1993.

15-70-304. Repealed. Sec. 8, Ch. 188, L. 2013.
History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(d), (i), (j); amd. Sec. 3, Ch. 599, L. 1979; amd. Sec. 1, Ch. 625, L. 1979; amd. Sec. 1, Ch. 262, L. 1987; amd. Sec. 4, Ch. 547, L. 1989; amd. Sec. 1, Ch. 121, L. 1991; amd. Sec. 4, Ch. 525, L. 1993; amd. Sec. 5, Ch. 10, Sp. L. November 1993; amd. Sec. 6, Ch. 568, L. 2001; amd. Sec. 4, Ch. 525, L. 2005.

15-70-305. Repealed. Sec. 8, Ch. 188, L. 2013.
History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(e) thru (g); amd. Sec. 4, Ch. 599, L. 1979; amd. Sec. 5, Ch. 547, L. 1989; amd. Sec. 5, Ch. 525, L. 1993; amd. Sec. 6, Ch. 10, Sp. L. November 1993.

15-70-306. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(part (h)); amd. Sec. 5, Ch. 599, L. 1979; amd. Sec. 6, Ch. 547, L. 1989; amd. Sec. 6, Ch. 525, L. 1993; amd. Sec. 7, Ch. 10, Sp. L. November 1993.

15-70-307. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(part (h)); amd. Sec. 6, Ch. 599, L. 1979; amd. Sec. 7, Ch. 525, L. 1993.

15-70-308. Repealed. Sec. 13, Ch. 232, L. 1997.

History: En. Sec. 1, Ch. 78, L. 1981; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 43, L. 1995.

15-70-309. Repealed. Sec. 20, Ch. 10, Sp. L. November 1993.

History: En. Sec. 7, Ch. 547, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 8, Ch. 525, L. 1993.

15-70-310 reserved.

15-70-311. Renumbered 15-70-455. Sec. 41, Ch. 220, L. 2015.

15-70-312. Renumbered 15-70-456. Sec. 41, Ch. 220, L. 2015.

15-70-313. Renumbered 15-70-457. Sec. 41, Ch. 220, L. 2015.

15-70-314. Renumbered 15-70-458. Sec. 41, Ch. 220, L. 2015.

15-70-315. Repealed. Sec. 20, Ch. 10, Sp. L. November 1993.

History: En. Sec. 2, Ch. 220, L. 1987; amd. Sec. 11, Ch. 525, L. 1993.

15-70-316. Repealed. Sec. 44, Ch. 525, L. 1993.

History: En. Sec. 3, Ch. 220, L. 1987.

15-70-317. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 1, Ch. 322, L. 2007.

15-70-318 and 15-70-319 reserved.

15-70-320. Renumbered 15-70-405. Sec. 41, Ch. 220, L. 2015.

15-70-321. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. 84-1832.1 by Sec. 2, Ch. 60, L. 1969; amd. Sec. 2, Ch. 277, L. 1971; amd. Sec. 81, Ch. 516, L. 1973; amd. Sec. 2, Ch. 473 L. 1975; amd. Sec. 1, Ch. 514, L. 1975; amd. Sec. 4, Ch. 390, L. 1977; R.C.M. 1947, 84-1832.1; amd. Sec. 3, Ch. 632, L. 1979; amd. Sec. 2, Ch. 624, L. 1983; amd. Sec. 2, Ch. 30, L. 1987; amd. Sec. 12, Ch. 525, L. 1993; amd. Sec. 23, Ch. 575, L. 1993; amd. Sec. 3, Ch. 605, L. 1993; amd. Sec. 9, Ch. 10, Sp. L. November 1993; amd. Sec. 4, Ch. 43, L. 1995; amd. Sec. 7, Ch. 568, L. 2001; amd. Sec. 2, Ch. 384, L. 2005; amd. Sec. 4, Ch. 188, L. 2013; amd. Sec. 1, Ch. 418, L. 2013.

15-70-322. Repealed. Sec. 44, Ch. 525, L. 1993.

History: En. Sec. 3, Ch. 162, L. 1955; amd. Sec. 2, Ch. 66, L. 1963; amd. Sec. 3, Ch. 60, L. 1969; amd. Sec. 1, Ch. 12, L. 1971; amd. Sec. 1, Ch. 277, L. 1971; amd. Sec. 80, Ch. 516, L. 1973; R.C.M. 1947, 84-1832; amd. Sec. 1, Ch. 610, L. 1979; amd. Sec. 2, Ch. 321, L. 1985.

15-70-323. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 5, Ch. 162, L. 1955; amd. Sec. 2, Ch. 216, L. 1957; amd. Sec. 82, Ch. 516, L. 1973; R.C.M. 1947, 84-1834; amd. Sec. 1, Ch. 58, L. 1985; amd. Sec. 13, Ch. 525, L. 1993; amd. Sec. 3, Ch. 384, L. 2005.

15-70-324. Repealed. Sec. 40, Ch. 220, L. 2015.

History: En. Sec. 9, Ch. 162, L. 1955; amd. Sec. 1, Ch. 106, L. 1967; amd. Sec. 85, Ch. 516, L. 1973; amd. Sec. 2, Ch. 34, L. 1977; R.C.M. 1947, 84-1838(part); amd. Sec. 2, Ch. 16, L. 1983; amd. Sec. 14, Ch. 525, L. 1993; amd. Sec. 10, Ch. 10, Sp. L. November 1993; amd. Sec. 10, Ch. 19, L. 2011.

15-70-325. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(part (a)); amd. Sec. 1, Ch. 299, L. 1979; amd. Sec. 7, Ch. 599, L. 1979; amd. Sec. 1, Ch. 200, L. 1985; amd. Sec. 15, Ch. 525, L. 1993; amd. Sec. 4, Ch. 384, L. 2005.

15-70-326. Renumbered 15-70-404. Sec. 41, Ch. 220, L. 2015.

15-70-327. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(c); amd. Sec. 8, Ch. 599, L. 1979; amd. Sec. 17, Ch. 525, L. 1993.

15-70-328. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 7, Ch. 162, L. 1955; amd. Sec. 1, Ch. 104, L. 1967; R.C.M. 1947, 84-1836; amd. Sec. 3, Ch. 562, L. 1989; amd. Sec. 2, Ch. 428, L. 1993; amd. Sec. 18, Ch. 525, L. 1993.

15-70-329. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 8, Ch. 162, L. 1955; amd. Sec. 2, Ch. 104, L. 1967; amd. Sec. 84, Ch. 516, L. 1973; R.C.M. 1947, 84-1837; amd. Sec. 1, Ch. 33, L. 1993; amd. Sec. 19, Ch. 525, L. 1993.

15-70-330. Renumbered 15-70-441. Sec. 41, Ch. 220, L. 2015.

15-70-331. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(f); amd. Sec. 21, Ch. 525, L. 1993.

15-70-332. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(g); amd. Sec. 22, Ch. 525, L. 1993.

15-70-333. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(h); amd. Sec. 23, Ch. 525, L. 1993.

15-70-334. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 4, Ch. 162, L. 1955; amd. Sec. 1, Ch. 216, L. 1957; amd. Sec. 8, Ch. 70, L. 1963; amd. Sec. 1, Ch. 61, L. 1969; amd. Sec. 2, Ch. 12, L. 1971; amd. Sec. 3, Ch. 277, L. 1971; amd. Sec. 71, Ch. 405, L. 1973; amd. Sec. 1, Ch. 236, L. 1977; amd. Sec. 1, Ch. 270, L. 1977; R.C.M. 1947, 84-1833(k); amd. Sec. 39, Ch. 439, L. 1981.

15-70-335. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd. Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch. 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(i); amd. Sec. 2, Ch. 58, L. 1985.

15-70-336. Repealed. Sec. 8, Ch. 188, L. 2013.

History: En. Sec. 10, Ch. 162, L. 1955; amd. Sec. 3, Ch. 216, L. 1957; R.C.M. 1947, 84-1839; amd. Sec. 4, Ch. 115, L. 2001.

15-70-337 through 15-70-340 reserved.

15-70-341. Renumbered 15-70-402. Sec. 41, Ch. 220, L. 2015.

15-70-342. Repealed. Sec. 5, Ch. 37, L. 1999.

History: En. Sec. 25, Ch. 525, L. 1993.

15-70-343. Renumbered 15-70-403. Sec. 41, Ch. 220, L. 2015.

15-70-344. Renumbered 15-70-410. Sec. 41, Ch. 220, L. 2015.

15-70-345. Renumbered 15-70-411. Sec. 41, Ch. 220, L. 2015.

15-70-346. Terminated. Sec. 39(5), Ch. 15, Sp. L. July 1992.

History: En. Sec. 17, Ch. 15, Sp. L. July 1992.

15-70-347. Terminated. Sec. 39(4), Ch. 15, Sp. L. July 1992.

History: En. Sec. 18, Ch. 15, Sp. L. July 1992.

15-70-348. Renumbered 15-70-412. Sec. 41, Ch. 220, L. 2015.

15-70-349. Renumbered 15-70-415. Sec. 41, Ch. 220, L. 2015.

15-70-350 reserved.

15-70-351. Renumbered 15-70-416. Sec. 41, Ch. 220, L. 2015.

15-70-352. Renumbered 15-70-417. Sec. 41, Ch. 220, L. 2015.

15-70-353. Renumbered 15-70-418. Sec. 41, Ch. 220, L. 2015.

15-70-354. Renumbered 15-70-420. Sec. 41, Ch. 220, L. 2015.

15-70-355. Renumbered 15-70-421. Sec. 41, Ch. 220, L. 2015.

15-70-356. Renumbered 15-70-425. Sec. 41, Ch. 220, L. 2015.

15-70-357. Renumbered 15-70-419. Sec. 41, Ch. 220, L. 2015.

15-70-358 through 15-70-360 reserved.

15-70-361. Renumbered 15-70-426. Sec. 41, Ch. 220, L. 2015.

15-70-362. Renumbered 15-70-430. Sec. 41, Ch. 220, L. 2015.

15-70-363. Renumbered 15-70-431. Sec. 41, Ch. 220, L. 2015.

15-70-364. Renumbered 15-70-432. Sec. 41, Ch. 220, L. 2015.

15-70-365. Renumbered 15-70-434. Sec. 41, Ch. 220, L. 2015.

15-70-366. Renumbered 15-70-443. Sec. 41, Ch. 220, L. 2015.

15-70-367 and 15-70-368 reserved.

15-70-369. Renumbered 15-70-433. Sec. 41, Ch. 220, L. 2015.

15-70-370. Repealed. Sec. 9, Ch. 525, L. 2005.

History: **En. Sec. 8, Ch. 568, L. 2001.**

15-70-371. Renumbered 15-70-442. Sec. 41, Ch. 220, L. 2015.

15-70-372. Repealed. Sec. 40, Ch. 220, L. 2015.

History: **En. Sec. 2, Ch. 115, L. 2001; amd. Sec. 7, Ch. 384, L. 2005; amd. Sec. 3, Ch. 322, L. 2007; amd. Sec. 7, Ch. 188, L. 2013.**

Part 4
Gasoline and Special Fuel Tax

15-70-401. *(Temporary)* **Definitions.** As used in this part, the following definitions apply:

(1) "Agricultural use" means use of gasoline or special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) "Aviation fuel" means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(3) (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

(4) "Bulk delivery" means placing gasoline or special fuel not intended for resale in storage or containers. The term does not mean gasoline or special fuel delivered into the supply tank of a motor vehicle.

(5) "Cardtrol" or "keylock" means a unique device intended to allow access to a fuel dealer's unattended pump or dispensing unit for the purpose of delivery of gasoline or special fuel to an authorized user of the unique device.

(6) "Department" means the department of transportation.

(7) (a) "Distributed" means the withdrawal of gasoline or special fuel from a refinery or terminal storage, other than by pipeline, by a licensed distributor for sale or use in this state, including:

(i) gasoline or special fuel refined, produced, manufactured, or compounded in this state and placed in storage tanks in this state;

(ii) gasoline or special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the refinery or terminal; or

(iii) gasoline or special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

(b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

(8) (a) "Distributor" means:

(i) a person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline or special fuel for sale, use, or distribution;

(ii) an importer who imports gasoline or special fuel for sale, use, or distribution;

(iii) a person who engages in the wholesale distribution of gasoline or special fuel in this state and chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

(iv) an exporter;

(v) a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

(vi) a person in Montana who blends ethanol with gasoline.

(b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in the blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured ethanol and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline would be reflected as E-85.

(11) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal within Montana.

(12) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption outside Montana.

(13) (a) "Gasoline" includes:

(i) all petroleum products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines; and

(ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the additive's classifications or uses.

(b) "Gasoline" does not include special fuels as defined in this section.

(14) "Import" means to first receive gasoline or special fuel into possession or custody after its arrival and coming to rest at a destination within the state or to first receive any gasoline or special fuel shipped or transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

(15) "Importer" means a person who transports or arranges for the transportation of gasoline or special fuel into Montana for sale, use, or distribution.

(16) "Improperly imported fuel" means gasoline or special fuel that is:

(a) consigned to a Montana destination and imported into the state without the distributor first having obtained a Montana distributor license as required in 15-70-402; or

(b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15, chapter 70.

(17) "Motor vehicle" means all vehicles that are operated on the public roads and highways of this state and that are operated in whole or in part by the combustion of gasoline or special fuel.

(18) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or corporation. Whenever the term is used in any clause prescribing and imposing

a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied to joint-stock companies and corporations, the officers.

(19) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

(a) built and maintained with appropriated funds of the United States, the state of Montana, or any political subdivision of the state;

(b) dedicated to public use;

(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any political subdivision of the state.

(20) "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons annually of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(21) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles operating on the public roads and highways of this state. The term "special fuel" includes biodiesel and additives of all types when the additive is mixed or blended into special fuel, regardless of the additive's classifications or uses.

(22) (a) "Special fuel user" means a person who consumes special fuel for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(b) The term does not include:

(i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state; or

(ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(23) "Use" means the operation of a motor vehicle on the public roads and highways of this state or of any political subdivision of this state.

(24) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food processors.

15-70-401. *(Effective July 1, 2026)* **Definitions.** As used in this part, the following definitions apply:

(1) "Agricultural use" means use of gasoline or special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) "Aviation fuel" means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(3) (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

(4) "Bulk delivery" means placing gasoline or special fuel not intended for resale in storage or containers. The term does not mean gasoline or special fuel delivered into the supply tank of a motor vehicle.

(5) "Cardtrol" or "keylock" means a unique device intended to allow access to a fuel dealer's unattended pump or dispensing unit for the purpose of delivery of gasoline or special fuel to an authorized user of the unique device.

(6) "Department" means the department of transportation.

(7) (a) "Distributed" means the withdrawal of gasoline or special fuel from a refinery or terminal storage, other than by pipeline, by a licensed distributor for sale or use in this state.

(b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

(c) The term does not include:

(i) gasoline or special fuel refined, produced, manufactured, or compounded in this state and placed in refinery or terminal storage tanks in this state;

(ii) gasoline or special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the refinery or terminal; or

(iii) gasoline or special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

(8) (a) "Distributor" means:

(i) a person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline or special fuel for sale, use, or distribution;

(ii) an importer who imports gasoline or special fuel for sale, use, or distribution;

(iii) a person who engages in the wholesale distribution of gasoline or special fuel in this state and chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

(iv) an exporter; or

(v) a person in this state who blends ethanol with gasoline.

(b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in the blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured ethanol and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline would be reflected as E-85.

(11) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal within Montana.

(12) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption outside Montana.

(13) (a) "Gasoline" includes:

(i) all petroleum products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines; and

(ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the additive's classifications or uses.

(b) "Gasoline" does not include special fuels as defined in this section.

(14) "Import" means to first receive gasoline or special fuel into possession or custody after its arrival and coming to rest at a destination within the state or to first receive any gasoline or special fuel shipped or transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

(15) "Importer" means a person who transports or arranges for the transportation of gasoline or special fuel into Montana for sale, use, or distribution.

(16) "Improperly imported fuel" means gasoline or special fuel that is:

(a) consigned to a Montana destination and imported into the state without the distributor first having obtained a Montana distributor license as required in 15-70-402; or

(b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15, chapter 70.

(17) "Motor vehicle" means all vehicles that are operated on the public roads and highways of this state and that are operated in whole or in part by the combustion of gasoline or special fuel.

(18) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied to joint-stock companies and corporations, the officers.

(19) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

(a) built and maintained with appropriated funds of the United States, the state of Montana, or any political subdivision of the state;

(b) dedicated to public use;

(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any political subdivision of the state.

(20) "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons annually of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(21) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles operating on the public roads and highways of this state. The term "special fuel" includes biodiesel and additives of all types when the additive is mixed or blended into special fuel, regardless of the additive's classifications or uses.

(22) (a) "Special fuel user" means a person who consumes special fuel for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(b) The term does not include:

(i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state; or

(ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(23) "Use" means the operation of a motor vehicle on the public roads and highways of this state or of any political subdivision of this state.

(24) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food processors.

History: **En. Sec. 2, Ch. 162, L. 1955; amd. Sec. 3, Ch. 247, L. 1959; amd. Sec. 1, Ch. 66, L. 1963; amd. Sec. 7, Ch. 70, L. 1963; amd. Sec. 12-106, Ch. 197, L. 1965; amd. Sec. 79, Ch. 516, L. 1973; amd. Sec. 1, Ch. 473, L. 1975; R.C.M. 1947, 84-1831; amd. Sec. 1, Ch. 350, L. 1979; amd. Sec; 2, Ch. 609, L. 1979; amd. Sec. 1, Ch. 321, L. 1985; amd. Sec. 1, Ch. 220, L. 1987; amd. Sec. 1, Ch. 547, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 1, Ch. 525, L. 1993; amd. Sec. 2, Ch. 10, Sp. L. November 1993; amd. Sec. 1, Ch. 43, L. 1995; amd. Sec. 4, Ch. 236, L. 1997; amd. Sec. 4, Ch. 461, L. 1999; amd. Sec. 28, Ch. 125, L. 2001; amd. Sec. 5, Ch. 568, L. 2001; amd. Sec. 21, Ch. 130, L. 2005; amd. Sec. 3, Ch. 525, L. 2005; amd. Sec. 2, Ch. 260, L. 2009; amd. Sec. 1, Ch. 188, L. 2013; amd. Sec. 10, Ch. 220, L. 2015; Sec. 15-70-301, MCA 2013; redes. 15-70-401 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 1, Ch. 445, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 445, L. 2025. Amendment effective July 1, 2026.

Cross-References

Definition of school district, 20-15-403.

15-70-402. *(Temporary)* **License and security of distributors — denial or disciplinary action.** (1) (a) Prior to doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-401, shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports fuel is $25,000.

(c) Upon approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered or revoked.

(2) The department may deny the issuance of a distributor license or take disciplinary action against the distributor if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the gasoline or special fuel tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

(4) If an application for a distributor license is denied or revoked or if the distributor is under disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

(6) Failure to obtain a distributor license as required in this section subjects the distributor to the provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

(7) As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties;

(b) a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

(c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special fuel for a distributor is not subject to the provisions of this section.

(9) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid.

15-70-402. *(Effective July 1, 2026)* **License and security of distributors — denial or disciplinary action.** (1) (a) Prior to doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-401, shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports fuel is $25,000.

(c) On approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered, canceled, or revoked.

(2) The department may deny the issuance of a distributor license or take disciplinary action against the distributor if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the gasoline or special fuel tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

(4) If an application for a distributor license is denied or revoked or if the distributor is under disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

(6) Failure to obtain a distributor license as required in this section subjects the distributor to the provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

(7) As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties;

(b) a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

(c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special fuel for a distributor is not subject to the provisions of this section.

(9) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid.

History: En. Sec. 24, Ch. 525, L. 1993; amd. Sec. 12, Ch. 10, Sp. L. November 1993; amd. Sec. 5, Ch. 236, L. 1997; amd. Sec. 3, Ch. 37, L. 1999; amd. Sec. 2, Ch. 142, L. 2001; amd. Sec. 10, Ch. 568, L. 2001; amd. Sec. 5, Ch. 525, L. 2005; amd. Sec. 14, Ch. 220, L. 2015; Sec. 15-70-341, MCA 2013; redes. 15-70-402 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 2, Ch. 445, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 445, L. 2025. Amendment effective July 1, 2026.

15-70-403. *(Temporary)* **Gasoline, special fuel, and aviation fuel tax — incidence — rates.** (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which the gasoline tax has not been paid by any other distributor;

(b) 29.75 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 5 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the local government road construction and maintenance restricted account provided for in 15-70-128.

(4) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(5) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(6) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(7) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(8) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be fuel on which Montana fuel tax has been paid.

(9) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (8) must be produced using fuel on which Montana fuel tax has been paid.

15-70-403. *(Effective July 1, 2026)* **Gasoline, special fuel, and aviation fuel tax — incidence — rates.** (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which the gasoline tax has not been paid by any other distributor;

(b) 29.75 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 5 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the local government road construction and maintenance restricted account provided for in 15-70-128.

(4) (a) Except as provided in subsection (4)(b), when gasoline, special fuel, or aviation fuel is withdrawn from a refinery or pipeline terminal in this state, the gasoline, special fuel, or aviation fuel is considered to be distributed by the distributor who is the owner of the gasoline, special fuel, or aviation fuel prior to the time of withdrawal.

(b) If gasoline, special fuel, or aviation fuel is withdrawn for shipment or delivery to a licensed distributor, it is considered to be distributed by the first licensed distributor to take possession of the gasoline, special fuel, or aviation fuel as shown by the bill of lading issued by the terminal or refinery.

(5) Imported gasoline, special fuel, or aviation fuel, except for gasoline, special fuel, or aviation fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it arrives and is brought to rest in this state by the person who is the owner of the gasoline, special fuel, or aviation fuel at the time the gasoline, special fuel, or aviation fuel is unloaded from its shipping vessel. If the owner is not licensed as a Montana distributor and if the gasoline, special fuel, or aviation fuel is shipped or delivered in this state by a person who is licensed as a distributor, then the gasoline, special fuel, or aviation fuel is considered to be distributed by the licensed distributor.

(6) For the purposes of the tax provided for in this section, gasoline, special fuel, and aviation fuel may not be exchanged tax-free between licensed distributors more than one time.

(7) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(8) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(9) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(10) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(11) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be fuel on which Montana fuel tax has been paid.

(12) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (11) must be produced using fuel on which Montana fuel tax has been paid.

History: En. Sec. 26, Ch. 525, L. 1993; amd. Sec. 13, Ch. 10, Sp. L. November 1993; amd. Sec. 7, Ch. 340, L. 1999; amd. Sec. 15, Ch. 220, L. 2015; Sec. 15-70-343, MCA 2013; redes. 15-70-403 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 30, Ch. 384, L. 2017; amd. Sec. 1, Ch. 428, L. 2019; amd. Sec. 3, Ch. 455, L. 2019; amd. Sec. 3, Ch. 123, L. 2023; amd. Sec. 3, Ch. 445, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 445, L. 2025. Amendment effective July 1, 2026.

Cross-References

Allocation of portion of tax to fund highway system, 15-70-126.
Refund authorized, 15-70-521.
Tax incentive for production of alcohol, 15-70-522.

15-70-404. *(Temporary)* **Computation.** (1) The tax imposed on the distributor under 15-70-403(1) may be rounded to the nearest whole dollar amount.

(2) The tax imposed under 15-70-403(6) on owners or operators of the motor vehicles operating on the public roads and highways of this state must be computed, with respect to gasoline or special fuel for which the tax has not been paid in this state and that has been consumed by the purchaser, by multiplying the corresponding tax rate per gallon as provided in 15-70-403(1) by the number of gallons of gasoline or special fuel consumed by the person in the operation of motor vehicles on the public roads and highways of this state.

15-70-404. *(Effective July 1, 2026)* **Computation.** (1) The tax imposed on the distributor under 15-70-403(1) may be rounded to the nearest whole dollar amount.

(2) The tax imposed under 15-70-403(9) on owners or operators of the motor vehicles operating on the public roads and highways of this state must be computed, with respect to gasoline or special fuel for which the tax has not been paid in this state and that has been consumed by the purchaser, by multiplying the corresponding tax rate per gallon as provided in 15-70-403(1) by the number of gallons of gasoline or special fuel consumed by the person in the operation of motor vehicles on the public roads and highways of this state.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd; Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch; 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(b); amd. Sec. 16, Ch. 525, L. 1993; amd. Sec. 9, Ch. 568, L. 2001; amd. Sec. 12, Ch. 220, L. 2015; Sec. 15-70-326, MCA 2013; redes. 15-70-404 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 9, Ch. 267, L. 2017; amd. Sec. 31, Ch. 384, L. 2017; amd. Sec. 4, Ch. 445, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 445, L. 2025. Amendment effective July 1, 2026.

Contingent Effective Date: Section 12, Ch. 568, L. 2001, provided: "[This act] is effective 30 days after the director of the department of transportation certifies to the governor, sending a copy of the certification to the secretary of state and the code commissioner, that:

(1) an ethanol plant is operational and producing fuel in Montana; and

(2) the net working capital in the restricted highway state special revenue account, excluding any proceeds obtained through debt financing, is at least $20 million on June 30 following the date on which the condition in subsection (1) is complied with."

Contingent Termination: Section 13, Ch. 568, L. 2001, provided: "[This act] terminates June 30 of the fourth year following [the effective date of this act]." Effective on occurrence of contingency.

15-70-405. Exemption from special fuel tax. (1) Subject to the conditions of this section, a special biodiesel fuel producer is exempt from the special fuel tax imposed by 15-70-403 on biodiesel produced by the producer from waste vegetable oil feedstock.

(2) This section does not apply to special fuel used for agricultural purposes pursuant to 15-70-430.

(3) To qualify for the exemption under this section, the special biodiesel fuel producer shall:

(a) register annually with the department; and

(b) report on the amount of biodiesel produced and used by the producer in a calendar year by February 15 of the succeeding year.

History: En. Sec. 1, Ch. 260, L. 2009; amd. Sec. 11, Ch. 220, L. 2015; Sec. 15-70-320, MCA 2013; redes. 15-70-405 by Sec. 41, Ch. 220, L. 2015.

15-70-406 through 15-70-409 reserved.

15-70-410. Distributor's statement and payment — confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, except as provided in 15-70-113(3), render to the department of transportation a signed statement that specifies all gasoline or special fuel distributed and received by the distributor in this state during the preceding calendar month and that contains other information the department may reasonably require in order to administer the fuel tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-403, less any refund credit issued under 15-70-425 and less 1% of the total tax that may be deducted by the distributor as an allowance for collection. An allowance may not be deducted from the tax on aviation fuel.

(2) A distributor engaged in or carrying on a business at more than one location in this state may include all places of business in one statement.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of fuel. This section does not prohibit:

(a) the delivery to a distributor or a distributor's authorized representative of a certified copy of any return or report filed in connection with the distributor's tax;

(b) the inspection by the attorney general or by another legal representative of the state of the report or return of a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on gasoline or special fuel or by any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction.

History: En. Sec. 27, Ch. 525, L. 1993; amd. Sec. 6, Ch. 77, L. 1999; amd. Sec. 16, Ch. 220, L. 2015; Sec. 15-70-344, MCA 2013; redes. 15-70-410 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 4, Ch. 455, L. 2019.

15-70-411. Recordkeeping requirements. Each distributor or any other person dealing in, transporting, receiving, or storing gasoline or special fuel shall keep records, receipts, and invoices and any other pertinent papers and information that the department of transportation may require for a minimum of 3 years.

History: En. Sec. 28, Ch. 525, L. 1993; amd. Sec. 17, Ch. 220, L. 2015; Sec. 15-70-345, MCA 2013; redes. 15-70-411 by Sec. 41, Ch. 220, L. 2015.

15-70-412. Invoice of distributors and aviation fuel dealers. Each distributor and aviation fuel dealer in this state shall at the time of delivery, except when authorized by the department of transportation, issue to the purchaser an invoice that states the number of gallons of gasoline or special fuel covered by the invoice and any other information the department may require.

History: En. Sec. 29, Ch. 525, L. 1993; amd. Sec. 18, Ch. 220, L. 2015; Sec. 15-70-348, MCA 2013; redes. 15-70-412 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 9, Ch. 275, L. 2017.

15-70-413 and 15-70-414 reserved.

15-70-415. Examination of records. (1) The department or its authorized representative may examine the books, papers, records, and equipment of any distributor, special fuel user, or person dealing in, transporting, or storing gasoline or special fuel, as defined in this part, and may investigate the character of the disposition that any person makes of the gasoline or special fuel in order to determine whether all taxes due are being properly reported and paid. If the books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished at the direction of the department for review either in the offices of the department or at the business location of the taxpayer.

(2) The records, receipts, invoices, and any other pertinent papers supporting sales of each distributor or any person dealing in, transporting, or storing gasoline or special fuel must be open and subject to inspection by the department or its authorized representative during business hours to determine the amount of gasoline or special fuel tax due.

(3) The department may physically inspect terminals, dyes, dyeing equipment, storage facilities, and downstream storage facilities. A person who purposely or knowingly refuses to permit an inspection authorized by this section is guilty of a misdemeanor punishable by a fine not to exceed $500 upon conviction for the first offense, not to exceed $1,000 upon conviction for the second offense, and not to exceed $2,000 for each subsequent conviction. Each refusal is a separate offense.

(4) For the purpose of enforcing the provisions of this part, the fact that a person has placed or received gasoline or special fuel into storage or dispensing equipment designed to fuel motor vehicles is prima facie evidence that all of the gasoline or special fuel has been delivered by the person into the fuel supply tanks of motor vehicles and consumed in the operation of motor vehicles on the public roads and highways of this state unless the contrary is established by satisfactory evidence.

(5) The department may establish vehicle inspection sites and may stop, detain, and inspect vehicles propelled by special fuel. A person who purposely or knowingly refuses to permit an inspection authorized by this section is guilty of a misdemeanor punishable by a fine not to exceed $500 upon conviction of the first offense, not to exceed $1,000 upon conviction for the second offense, and not to exceed $2,000 for each subsequent conviction. Each refusal is a separate offense.

(6) The department shall, upon request from officials entrusted to enforce the fuel tax laws of any other state, the District of Columbia, the United States, its territories and possessions, or the provinces of Canada, forward to the officials any information that it may have relative to the receipt, storage, delivery, sale, use, or other disposition of motor fuel by any distributor or special fuel user if the other state or states furnish similar information to this state.

History: En. Sec. 30, Ch. 525, L. 1993; amd. Sec. 14, Ch. 10, Sp. L. November 1993; amd. Sec. 19, Ch. 220, L. 2015; Sec. 15-70-349, MCA 2013; redes. 15-70-415 by Sec. 41, Ch. 220, L. 2015.

15-70-416. Information reports — penalty — confidentiality. (1) A person receiving gasoline or special fuel, including an importer, exporter, common carrier, private carrier, and contract carrier of property who hauls, receives, transports, or ships gasoline or special fuel from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state shall submit to the department of transportation, upon its request and within the time specified, a statement showing the number of gallons of gasoline or special fuel contained in each shipment in interstate commerce and the movement of the products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and addresses of the consignor and the consignee, and the date of delivery to the consignee.

(2) A person, except a licensed distributor, importer, or exporter, who refuses or fails to file a statement as required in this section is subject to a penalty of $100 for each failure or refusal.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of gasoline or special fuel. This section may not be construed to prohibit:

(a) the delivery to a person or the person's authorized representative of a certified copy of any report filed under subsection (1);

(b) the inspection by the attorney general or other legal representative of the state of the report or statement of a person if a person or distributor brings an action to set aside or review the tax based on the report or statement or if an action or proceeding has been instituted in accordance with the provisions of Title 15 against that person or distributor;

(c) the publication of statistics classified to prevent the identification of particular reports or statements and the items in the reports or statements;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on gasoline or special fuel or by the authorized representative of either officer of the report or statement of any person or the furnishing to the officer or authorized representative of an abstract of the report or statement, but permission may be granted or information may be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction.

History: En. Sec. 31, Ch. 525, L. 1993; amd. Sec. 20, Ch. 220, L. 2015; Sec. 15-70-351, MCA 2013; redes. 15-70-416 by Sec. 41, Ch. 220, L. 2015.

15-70-417. Penalties for delinquency. (1) Except for tax due under the agreement adopted under 15-70-121, any fuel tax not paid within the time provided in 15-70-113(3) and 15-70-410 is delinquent. A penalty of 10% must be added to the tax, and the tax bears interest at the rate of 1% per month, prorated daily, from the date of delinquency until paid.

(2) Except as provided in subsection (3), a statement filed after the date required in 15-70-410 is subject to a $100 penalty.

(3) (a) The department shall waive the penalty if the late filing is the first offense within a 3-year period of timely filings.

(b) The department may waive the penalty if the director or the director's designee determines the late filing or payment to be beyond the distributor's control.

(4) If a distributor or other person required to pay the tax willfully fails, neglects, or refuses to file any statement required by this part or willfully fails to pay the tax within the time provided, the department may revoke any license issued under this part.

(5) Except as provided in subsection (3), the department shall proceed to collect a delinquent tax, with penalties and interest. At the request of the department, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the tax.

History: En. Sec. 32, Ch. 525, L. 1993; amd. Sec. 7, Ch. 77, L. 1999; amd. Sec. 2, Ch. 120, L. 2001; amd. Sec. 21, Ch. 220, L. 2015; amd. Secs. 2, 3, Ch. 284, L. 2015; Sec. 15-70-352, MCA 2013; redes. 15-70-417 by Sec. 41, Ch. 220, L. 2015.

15-70-418. Fraudulent returns — penalty. If a distributor files a false or fraudulent return with intent to evade the tax imposed by this part, there is added to the amount of deficiency determined by the department of transportation a penalty equal to 25% of the deficiency, together with interest at the rate of 1% a month, prorated daily, on the deficiency from the date the tax was due to the date of payment, in addition to all other penalties prescribed by law.

History: En. Sec. 33, Ch. 525, L. 1993; amd. Sec. 22, Ch. 220, L. 2015; Sec. 15-70-353, MCA 2013; redes. 15-70-418 by Sec. 41, Ch. 220, L. 2015.

15-70-419. Improperly imported fuel — seizure. (1) As used in this section, the following definitions apply:

(a) "Conveyance" means a tank car, vehicle, or vessel that is used to transport fuel.

(b) "Peace officer" means an employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201.

(2) Pursuant to 61-12-206(5), a peace officer may:

(a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and

(b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in 15-70-402.

(3) The peace officer shall obtain authorization from the director of the department or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

(a) direct the rerouting or transfer of the fuel to a location designated by the department. The department shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the department.

(b) unload the fuel; and

(c) take three samples of the fuel from the cargo tank for examination.

(5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice of right to file claim for the return of interest or title to the fuel. The notice must be issued to:

(a) the original owner of the fuel;

(b) the owner of the transportation company that conveyed the fuel; and

(c) any other interested party.

(6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the department shall:

(a) provide the opportunity for a hearing;

(b) if requested, conduct the hearing within 5 days after receiving the claim;

(c) make a final determination of the party to take interest or title to the fuel within 2 working days after the hearing; and

(d) mail notice of the department's determination to interested parties.

(7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

(i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established in department administrative rule; or

(ii) use the forfeited fuel for a public purpose determined by the department.

(b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized fuel.

(c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

(i) the applicable taxes and fees, which the department shall deposit in the proportion provided by 15-70-403(2);

(ii) the interest and penalties collected under this chapter, which the department shall deposit in the highway nonrestricted account provided for in 15-70-125; and

(iii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly imported fuel.

(8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel, the department may:

(a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day of the seizure; or

(b) return the fuel.

(9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

(a) fails to file a claim for the seized fuel within the time allowed in subsection (6); or

(b) is determined to be guilty of violating fuel tax laws.

(10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal fuel importation in Title 15, chapter 70.

History: En. Sec. 6, Ch. 236, L. 1997; amd. Sec. 2, Ch. 366, L. 2005; amd. Sec. 14, Ch. 44, L. 2007; amd. Sec. 25, Ch. 220, L. 2015; Sec. 15-70-357, MCA 2013; redes. 15-70-419 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 10, Ch. 267, L. 2017; amd. Sec. 4, Ch. 123, L. 2023.

15-70-420. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department of transportation may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded thereafter. An action may not be maintained to enjoin the collection of all or any part of the tax.

History: En. Sec. 34, Ch. 525, L. 1993; amd. Sec. 23, Ch. 220, L. 2015; Sec. 15-70-354, MCA 2013; redes. 15-70-420 by Sec. 41, Ch. 220, L. 2015.

15-70-421. Statute of limitations. Except in the case of a fraudulent return or of neglect or refusal to make a return, every deficiency must be assessed within 3 years from the due date of the return or the date of filing the return, whichever period expires later.

History: En. Sec. 35, Ch. 525, L. 1993; Sec. 15-70-355, MCA 2013; redes. 15-70-421 by Sec. 41, Ch. 220, L. 2015.

15-70-422 through 15-70-424 reserved.

15-70-425. Refund or credit authorized. (1) A person who purchases and uses any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, operating stationary gasoline or special fuel engines used off the public roads and highways of this state, or for any commercial use other than operating vehicles on any of the public roads and highways of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline or special fuel used if the person has records, as provided in 15-70-426, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state. A refund is not allowed for the tax per gallon on aviation fuel allocated to the department of transportation as provided in 67-1-301.

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(3) A distributor who pays the gasoline or special fuel tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline or special fuel with a tax liability of $200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(5) A person who purchases and exports for sale, use, or consumption outside Montana any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined. Upon completion of the reports required under 15-70-416, the department shall authorize the credit or refund.

History: En. Sec. 36, Ch. 525, L. 1993; amd. Sec. 15, Ch. 10, Sp. L. November 1993; amd. Sec. 1, Ch. 569, L. 1995; amd. Sec. 8, Ch. 340, L. 1999; amd. Sec. 6, Ch. 384, L. 2005; amd. Sec. 6, Ch. 188, L. 2013; amd. Sec. 24, Ch. 220, L. 2015; Sec. 15-70-356, MCA 2013; redes. 15-70-425 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 5, Ch. 455, L. 2019.

Cross-References

Refund authorized, 15-70-521.

Tax incentive for production of alcohol, 15-70-522.

Use of money credited to state park account for refunds, 60-3-201.

15-70-426. Required records. (1) Except as provided in subsection (6), gasoline or special fuel purchased and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must be fully accounted for by detailed withdrawal records to accurately show the manner in which it was used. Gasoline or special fuel on hand, determined by actual measurement, must be deducted from a claim and must be reported as an opening inventory on the next claim.

(2) Service stations, bulk dealers, and marinas shall prepare a complete invoice identifying the type of fuel for each withdrawal of gasoline or special fuel for which a refund is to be claimed.

(3) Special storage facilities used for certain periods must be identified and explained. If gasoline or special fuel withdrawn from special storage is used entirely for off-highway purposes and is not used in licensed vehicles, no records will be required other than purchase invoices showing the delivery into special storage.

(4) When no highway use of gasoline or special fuel is deducted from the claim, the applicant shall substantiate purchases of gasoline or special fuel and miles traveled for licensed motor vehicles on request of the department of transportation.

(5) Any person who operates a licensed motor vehicle on and off the public roads for commercial purposes may claim refund of the state tax on the gasoline or special fuel used to operate the vehicle on roads or property in private ownership if the person has maintained the following records:

(a) the total number of miles traveled on and off public roads by each licensed vehicle;

(b) the total number of gallons of gasoline or special fuel used in each vehicle; and

(c) purchase invoices supporting all gasoline or special fuel handled through bulk storage.

(6) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is not required to keep dispersal records in order to claim a refund of special fuel taxes.

(7) An exporter or any other person who transports gasoline or special fuel out of Montana for sale, use, or consumption outside Montana shall maintain detailed and current records of withdrawal, transportation, ownership, and delivery of the gasoline or special fuel to destinations outside Montana as required by the department.

History: En. Sec. 37, Ch. 525, L. 1993; amd. Sec. 16, Ch. 10, Sp. L. November 1993; amd. Sec. 26, Ch. 220, L. 2015; Sec. 15-70-361, MCA 2013; redes. 15-70-426 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 1, Ch. 122, L. 2023.

15-70-427 through 15-70-429 reserved.

15-70-430. Estimate allowed for agricultural use — seller's signed statement acceptable on keylock or cardtrol purchases. (1) (a) An applicant whose use qualifies as agricultural use may apply for a refund of the applicable tax on the gallons of gasoline or special fuel as indicated by bulk delivery invoices or by evidence of keylock, cardtrol, electronic transaction report, or retail purchases as an estimate of off-highway use.

(b) To ensure that the applicant's use qualifies as agricultural use, the department of transportation may request state or federal income tax information from the applicant or the department of revenue to determine the ratio of the applicant's gross earned farm income to total gross earned income, excluding unearned income, provided that the department of transportation gives notice to the applicant.

(2) (a) For purposes of application for a refund under subsection (1)(a), the department shall accept, as evidence of keylock or cardtrol purchases, a statement of the sale of gasoline or special fuel with applicable Montana tax that identifies the purchaser and specifically identifies the transaction as a keylock or cardtrol purchase.

(b) For purposes of application for a refund under subsection (1)(a), the department shall accept, as evidence of retail purchases, a receipt for the sale of gasoline or special fuel with applicable Montana tax that identifies the purchaser, the physical address of the dealer, the type of fuel purchased, and the number of gallons purchased. Only retail purchases within 50 miles of the agricultural operation of the applicant are eligible for a refund.

(3) An applicant may apply for a refund of the applicable tax on gallons of gasoline or special fuel according to the applicant's ratio of gross earned farm income to total gross earned income, excluding unearned income, as follows:

(a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the gasoline or special fuel tax;

(b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the gasoline or special fuel tax;

(c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the gasoline or special fuel tax; and

(d) if the ratio is less than 30%, the applicant is not eligible for a refund of the gasoline or special fuel tax under this section.

(4) If the applicant's ratio in any of the 3 previous years on record is higher than the present year, the highest ratio must be used to calculate the eligible refund.

(5) If any invoice or evidence is either lost or destroyed, the purchaser may support the purchaser's claim for refund by submitting an affidavit relating the circumstances of the loss or destruction and by producing other evidence that may be required by the department of transportation.

(6) An applicant whose use does not qualify as agricultural use may not estimate and shall maintain records as required by 15-70-426.

History: En. Sec. 38, Ch. 525, L. 1993; amd. Sec. 5, Ch. 461, L. 1999; amd. Sec. 27, Ch. 220, L. 2015; Sec. 15-70-362, MCA 2013; redes. 15-70-430 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 1, Ch. 266, L. 2017; amd. Sec. 1, Ch. 91, L. 2019; amd. Sec. 1, Ch. 429, L. 2021; amd. Sec. 2, Ch. 122, L. 2023.

15-70-431. Determination of highway use. Highway use for each vehicle is determined by dividing the rate of the average miles per gallon into the number of miles traveled on public roads. When records are not available, an average of 4 miles per gallon or other methods that have been found acceptable may be used by the department to determine fuel use.

History: En. Sec. 39, Ch. 525, L. 1993; amd. Sec. 9, Ch. 340, L. 1999; Sec. 15-70-363, MCA 2013; redes. 15-70-431 by Sec. 41, Ch. 220, L. 2015.

15-70-432. Application for refund or credit — filing — correction by department. (1) (a) Except as provided in subsection (1)(b), the application for a refund must be a signed statement on a form furnished by the department. Except for a claim for a credit for taxes paid on unpaid accounts or special fuel taxes paid by the United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state or except for a claim for a refund filed electronically, the form must be accompanied by the original bulk delivery invoice or electronic transaction report issued to the claimant and must show the total amount of gasoline or special fuel purchased, the total amount of gasoline or special fuel on which a refund is claimed, and the amount of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim must be furnished as required by the department.

(b) A claim for a refund that is filed electronically in the manner specified by the department does not require a signature or the original invoices.

(c) A claim for a refund that is filed electronically does not relieve the taxpayer of maintaining records on which the claim for a refund is based.

(2) A bulk delivery invoice, receipt, keylock or cardtrol statement, or electronic transaction report that does not identify the dealer, dealer's location, purchaser, date of purchase, type of fuel, number of gallons purchased, or evidence of payment of Montana gasoline or a special fuel tax is not valid for refund purposes.

(3) All applications for refunds must be filed with the department within 36 months after the date on which the gasoline or special fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by the distributor on unpaid accounts within 3 years after the date of payment.

(4) If the department finds that the statement contains errors that are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement.

History: En. Sec. 40, Ch. 525, L. 1993; amd. Sec. 17, Ch. 10, Sp. L. November 1993; amd. Sec. 10, Ch. 340, L. 1999; amd. Sec. 3, Ch. 110, L. 2001; amd. Sec. 28, Ch. 220, L. 2015; Sec. 15-70-364, MCA 2013; redes. 15-70-432 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 6, Ch. 455, L. 2019; amd. Sec. 3, Ch. 122, L. 2023.

15-70-433. Refund for taxes paid on biodiesel by distributor or retailer — statement — payment — appropriation — records. (1) A licensed distributor who pays the special fuel tax under 15-70-403 on biodiesel, as defined in 15-70-401, may claim a refund equal to 2 cents a gallon on biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on a form provided by the department.

(b) The statement provided by a licensed distributor must set forth information required by the department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

(c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information required by the department, including the gallons of biodiesel purchased.

(4) The payment of the refund allowed by this section must be made by the department within 90 days after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet. Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state general fund.

(5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept for a period of not more than 3 years and must include receipts, invoices, and other information as the department may require.

(6) The department or its authorized representative may examine the books, papers, or records of any licensed distributor or owner or operator of a retail motor fuel outlet.

History: **En. Sec. 2, Ch. 525, L. 2005; amd. Sec. 4, Ch. 3, L. 2015; Sec. 15-70-369, MCA 2013; redes. 15-70-433 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 14, Ch. 163, L. 2019; amd. Sec. 1, Ch. 460, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 460, L. 2025. Amendment effective October 1, 2025.

15-70-434. Approval or rejection of claim. (1) The department of transportation has 120 working days after receiving the claim to approve or reject it. If approved, the department shall issue a credit in lieu of refund for the amount of the claim if the claimant is a distributor; for all other persons, a warrant must be drawn upon the state treasurer for the amount of the claim.

(2) If the department determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the department shall reject the claim in full. If a claim is rejected, the department may suspend the claimant's right to refund for a period not to exceed 1 year.

History: **En. Sec. 41, Ch. 525, L. 1993; Sec. 15-70-365, MCA 2013; redes. 15-70-434 by Sec. 41, Ch. 220, L. 2015.**

15-70-435 through 15-70-439 reserved.

15-70-440. Unlawful use of aviation fuel. It is unlawful for any person to use aviation fuel or to sell aviation fuel for use in any motorized vehicle operated on the public roads and highways of this state. Violation of this section is a misdemeanor subject to the penalties provided in 15-70-443.

History: **En. 84-1855.1 by Sec. 8, Ch. 204, L. 1971; R.C.M. 1947, 84-1855.1; amd. Sec. 9, Ch. 642, L. 1993; amd. Sec. 7, Ch. 220, L. 2015; Sec. 15-70-231, MCA 2013; redes. 15-70-440 by Sec. 41, Ch. 220, L. 2015.**

15-70-441. *(Temporary)* **Dyed special fuel restrictions — penalties.** (1) (a) A person may not use untaxed dyed special fuel in violation of 15-70-403(8) or (9) or to operate a motor vehicle on the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection (1)(c).

(b) (i) The purposeful or knowing use of untaxed dyed special fuel in a motor vehicle operating on the public roads and highways of this state in violation of 15-70-403(8) or (9) or this subsection (1) is subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties imposed under 15-70-443.

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed $1,000 for the first offense and $5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on the public roads and highways of this state when using dyed special fuel or nontaxed fuel.

(2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose.

15-70-441. *(Effective July 1, 2026)* **Dyed special fuel restrictions — penalties.** (1) (a) A person may not use untaxed dyed special fuel in violation of 15-70-403(11) or (12) or to operate a motor vehicle on the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection (1)(c).

(b) (i) The purposeful or knowing use of untaxed dyed special fuel in a motor vehicle operating on the public roads and highways of this state in violation of 15-70-403(11) or (12) or this subsection (1) is subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties imposed under 15-70-443.

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed $1,000 for the first offense and $5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on the public roads and highways of this state when using dyed special fuel or nontaxed fuel.

(2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose.

History: En. Sec. 6, Ch. 162, L. 1955; amd. Sec. 9, Ch. 70, L. 1963; amd; Sec. 1, Ch. 52, L. 1969; amd. Sec. 2, Ch. 61, L. 1969; amd. Sec. 4, Ch; 277, L. 1971; amd. Sec. 83, Ch. 516, L. 1973; amd. Sec. 1, Ch. 258, L. 1977; amd. Sec. 1, Ch. 377, L. 1977; R.C.M. 1947, 84-1835(d), (e); amd. Sec. 1, Ch. 591, L. 1979; amd. Sec. 20, Ch. 525, L. 1993; amd. Sec. 11, Ch. 10, Sp. L. November 1993; amd. Sec. 5, Ch. 43, L. 1995; amd. Sec. 3, Ch. 115, L. 2001; amd. Sec. 5, Ch. 384, L. 2005; amd. Sec. 5, Ch. 188, L. 2013; amd. Sec. 2, Ch. 418, L. 2013; amd. Sec. 13, Ch. 220, L. 2015; Sec. 15-70-330, MCA 2013; redes. 15-70-441 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 12, Ch. 3, L. 2019; amd. Sec. 2, Ch. 428, L. 2019; amd. Sec. 5, Ch. 445, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 445, L. 2025. Amendment effective July 1, 2026.

15-70-442. Marking of dyed diesel fuel pumps. (1) A fuel pump at a retail motor fuel outlet that dispenses nontaxed dyed special fuel for off-road use must be identified by a decal designed by the department and affixed to each side of the fuel pump so as to be easily identified and read by any person operating the fuel pump.

(2) The department may, after giving notice and holding a hearing, if requested, pursuant to Title 2, chapter 4, part 6, impose a civil penalty for failure to mark a dyed fuel pump with the appropriate decal. The penalty for each violation is $100 for each fuel pump.

History: En. Sec. 1, Ch. 295, L. 1999; amd. Sec. 1, Ch. 119, L. 2001; Sec. 15-70-371, MCA 2013; redes. 15-70-442 by Sec. 41, Ch. 220, L. 2015.

15-70-443. Penalties. A distributor or other person who fails, neglects, or refuses to make and file the statements required by this part in the manner or within the time provided, who is delinquent in the payment of any gasoline or special fuel tax imposed by this part, who makes any false statement with reference to the distributor's business, who makes any false statement

on any claim for refund, or who violates any provision of this part shall, in addition to any other penalties imposed, be guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for not to exceed 6 months, or both.

History: En. Sec. 42, Ch. 525, L. 1993; amd. Sec. 29, Ch. 220, L. 2015; Sec. 15-70-366, MCA 2013; redes. 15-70-443 by Sec. 41, Ch. 220, L. 2015.

15-70-444 through 15-70-449 reserved.

15-70-450. Cooperative agreement — motor fuels taxes. (1) In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department and an Indian tribe may enter into a cooperative agreement. The department may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters.

(2) The department of transportation shall report the status of cooperative agreement negotiations to the transportation interim committee in accordance with 5-11-210.

History: En. Sec. 1, Ch. 772, L. 1991; amd. Sec. 5, Ch. 772, L. 1991; amd. Sec. 5, Ch. 625, L. 1993; amd. Sec. 40, Ch. 19, L. 1999; Sec. 15-70-234, MCA 2013; redes. 15-70-450 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 15, Ch. 163, L. 2019; amd. Sec. 36, Ch. 261, L. 2021; amd. Sec. 2, Ch. 460, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 460, L. 2025. Amendment effective October 1, 2025.

15-70-451. Tribal motor fuels administration account. (1) There is a tribal motor fuels administration account in the state special revenue fund.

(2) The department shall deposit in the tribal motor fuels administration account administrative expenses and refunds deducted under a cooperative agreement provided for in 15-70-450.

(3) The department of transportation or the department of justice may expend the tribal motor fuels administration account only for the purposes of administering the gasoline tax and providing refunds under a cooperative agreement.

History: En. Sec. 2, Ch. 772, L. 1991; amd. Sec. 5, Ch. 772, L. 1991; amd. Sec. 5, Ch. 158, L. 1995; amd. Sec. 84, Ch. 42, L. 1997; amd. Sec. 8, Ch. 220, L. 2015; Sec. 15-70-235, MCA 2013; redes. 15-70-451 by Sec. 41, Ch. 220, L. 2015.

15-70-452. Tribal motor fuels tax account. (1) There is a tribal motor fuels tax account in the state special revenue fund.

(2) The department shall deposit in the tribal motor fuels tax account the tax collected under 15-70-450, except the administrative expenses and refunds deducted under a cooperative agreement.

(3) The money in the tribal motor fuels tax account must be disbursed to the tribe quarterly, as provided for in the agreement entered into pursuant to 15-70-450.

History: En. Sec. 3, Ch. 772, L. 1991; amd. Sec. 85, Ch. 42, L. 1997; amd. Sec. 9, Ch. 220, L. 2015; Sec. 15-70-236, MCA 2013; redes. 15-70-452 by Sec. 41, Ch. 220, L. 2015.

15-70-453 and 15-70-454 reserved.

15-70-455. Nonresident special fuel user's temporary trip permits — nonresident agricultural harvesting equipment special fuel permit — nonresident special fuel user's agricultural product temporary trip permit. (1) Any nonresident person operating a special fuel-powered vehicle over 26,000 pounds gross vehicle weight or registered gross vehicle weight upon the public roads and highways of this state who is not covered under the International Fuel Tax Agreement provided for in 15-70-121 is required to purchase a special fuel user's temporary trip permit. The permits must be issued by motor carrier services division employees, Montana highway patrol officers, and other enforcing agents that the department may prescribe by order or rule.

(2) Any nonresident person upon entering the state with agricultural harvesting equipment that is over 26,000 pounds gross vehicle weight or registered gross vehicle weight and that is powered by special fuel and operating upon the public roads and highways of this state who is not covered under the International Fuel Tax Agreement provided for in 15-70-121 is required to purchase a nonresident agricultural harvesting equipment special fuel permit.

The permit must be issued by motor carrier services division employees, Montana highway patrol officers, and other enforcing agents that the department may prescribe by order or rule.

(3) Any nonresident person operating a special fuel-powered vehicle over 26,000 pounds gross vehicle weight or registered gross vehicle weight upon the public roads and highways of this state who is using the vehicle for the movement of that person's agricultural products, as defined in 80-11-101, and who is not covered under the International Fuel Tax Agreement provided for in 15-70-121 is required to purchase a special fuel user's agricultural product temporary trip permit. The permit is not valid for contract custom haulers. The permit is valid for a radius of 70 miles from a point specified on the permit. The permit must be issued by motor carrier services division employees, Montana highway patrol officers, and other enforcing agents that the department may prescribe by order or rule. A permit application may be submitted electronically, and the permit may be subsequently issued when the appropriate fee required in 15-70-456(3) is received by the permit issuer. Any costs associated with the electronic application process may be added to the total cost of the permit.

History: **En. Sec. 1, Ch. 200, L. 1961; amd. Sec. 1, Ch. 105, L. 1967; amd. Sec. 87, Ch. 516, L. 1973; amd. Sec. 1, Ch. 440, L. 1975; R.C.M. 1947, 84-1842; amd. Sec. 2, Ch. 222, L. 1985; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 9, Ch. 525, L. 1993; amd. Sec. 3, Ch. 575, L. 1993; amd. Sec. 8, Ch. 10, Sp. L. November 1993; amd. Sec. 1, Ch. 397, L. 2005; amd. Sec. 2, Ch. 188, L. 2013; Sec. 15-70-311, MCA 2013; redes. 15-70-455 by Sec. 41, Ch. 220, L. 2015.**

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-70-456. Fees for temporary permits — duration of temporary permits. (1) Temporary special fuel permits issued under 15-70-455(1) cost $30. The permit is valid for a period of time not to exceed 72 hours and is automatically void if the vehicle leaves the state of Montana during the 72-hour period.

(2) A temporary special fuel permit for a nonresident operating agricultural harvesting equipment costs $30 per unit for the calendar year in which the fee is collected. The permit is not transferable. A unit is defined as:

(a) one truck suitable for hauling commodities;

(b) one harvesting machine; and

(c) pickup trucks and any other accessory vehicles.

(3) The cost of a special fuel user's agricultural product temporary trip permit for a person operating a vehicle in the movement of that person's agricultural products, as provided in 15-70-455(3), is:

(a) $100 for a permit that is valid for 30 days from the date of issuance; or

(b) $300 for a permit that is valid for 3 months from the date of issuance.

(4) All fees collected must be remitted to the department or deposited directly in the highway restricted account provided for in 15-70-126 for the department.

History: **En. Sec. 2, Ch. 200, L. 1961; amd. Sec. 88, Ch. 516, L. 1973; amd. Sec. 2, Ch. 440, L. 1975; R.C.M. 1947, 84-1843(part); amd. Sec. 1, Ch. 601, L. 1979; amd. Sec. 1, Ch. 40, L. 1981; amd. Sec. 3, Ch. 48, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 10, Ch. 525, L. 1993; amd. Sec. 2, Ch. 397, L. 2005; Sec. 15-70-312, MCA 2013; redes. 15-70-456 by Sec. 41, Ch. 220, L. 2015; amd. Sec. 11, Ch. 267, L. 2017.**

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-70-457. Department to furnish forms. Special fuel temporary permits, nonresident temporary permits, remittance forms, and any other necessary papers for the accounting and enforcement of 15-70-455 through 15-70-458 must be furnished by the department.

History: **En. Sec. 2, Ch. 200, L. 1961; amd. Sec. 88, Ch. 516, L. 1973; amd. Sec. 2, Ch. 440, L. 1975; R.C.M. 1947, 84-1843(part); Sec. 15-70-313, MCA 2013; redes. 15-70-457 by Sec. 41, Ch. 220, L. 2015.**

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

15-70-458. Penalty for operation without temporary permit — compliance bond — policy continued. (1) Any user of special fuel vehicles operating within the state of Montana who does not make application for a temporary permit required by 15-70-455 and pay the specified fee is guilty of committing a misdemeanor and upon conviction shall be fined $50.

(2) Nothing contained in this section affects the existing policy of accepting a compliance bond to be retained for use by the department and to be imposed at the discretion of the enforcing agency.

History: En. Sec. 3, Ch. 200, L. 1961; amd. Sec. 89, Ch. 516, L. 1973; R.C.M. 1947, 84-1844; amd. Sec. 3, Ch. 188, L. 2013; Sec. 15-70-314, MCA 2013; redes. 15-70-458 by Sec. 41, Ch. 220, L. 2015.

Cross-References

Enforcement by Department of Transportation personnel, 61-12-206.

Part 5
Ethanol Tax Incentive and Administration

15-70-501. Short title. This part may be cited as the "Ethanol Tax Incentive and Administration Act of 1983".

History: En. Sec. 1, Ch. 649, L. 1983; amd. Sec. 7, Ch. 100, L. 2007.

15-70-502. Purpose. The purpose of this part is to establish schedules for the tax incentive for the production of ethanol to be blended for ethanol-blended gasoline and to provide for the proper administration and enforcement of the tax incentive. The schedules for the tax incentive are designed to stimulate the development of ethanol production in Montana while limiting the cost to the state of the tax incentive to amounts that are reasonable in relation to the highway revenue needs of Montana.

History: En. Sec. 2, Ch. 649, L. 1983; amd. Sec. 8, Ch. 100, L. 2007.

15-70-503. Definitions. As used in this part, the definitions in 15-70-401 and the following definitions apply:

(1) "Department" means the department of transportation.

(2) "Ethanol distributor" means any person who, for the purpose of making ethanol-blended gasoline, engages in the business of producing ethanol for sale, use, or distribution.

(3) "Ethanol-blended gasoline dealer" means any person who blends ethanol with gasoline to produce ethanol-blended gasoline for sale from a wholesale or retail outlet, for use, or for distribution in this state.

History: En. Sec. 3, Ch. 649, L. 1983; amd. Sec. 2, Ch. 697, L. 1985; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 1, Ch. 723, L. 1991; amd. Sec. 5, Ch. 452, L. 2005; amd. Sec. 9, Ch. 100, L. 2007; amd. Sec. 30, Ch. 220, L. 2015.

15-70-504 through 15-70-510 reserved.

15-70-511. Licensing of ethanol distributors. An ethanol distributor, prior to doing business, shall file with the department an application for a license, using forms prescribed and furnished by the department and setting forth information that may be requested by the department. Upon approval of the application, the department shall issue the distributor a nonassignable license that continues in force until surrendered or canceled.

History: En. Sec. 4, Ch. 649, L. 1983; amd. Sec. 10, Ch. 100, L. 2007.

15-70-512. Distributor's statement. Each ethanol distributor shall, not later than the 25th day of each calendar month, render to the department a statement, signed by the distributor, that includes the following:

(1) the number of gallons of ethanol manufactured or imported by the distributor during the preceding calendar month;

(2) the name of each ethanol-blended gasoline dealer to whom the distributor sold ethanol and the number of gallons sold to each dealer; and

(3) other information that the department may reasonably require to administer the tax laws of this state.

History: En. Sec. 5, Ch. 649, L. 1983; amd. Sec. 11, Ch. 100, L. 2007.

15-70-513. Recordkeeping requirements. The records of each ethanol distributor and ethanol-blended gasoline dealer must be kept for a period of not more than 3 years and must include receipts, invoices, and other information that the department may require.

History: En. Sec. 6, Ch. 649, L. 1983; amd. Sec. 12, Ch. 100, L. 2007.

15-70-514. Examination of records. The department or its authorized representative may examine the books, papers, records, and equipment of any ethanol distributor or ethanol-blended gasoline dealer.

History: En. Sec. 7, Ch. 649, L. 1983; amd. Sec. 13, Ch. 100, L. 2007.

15-70-515 through 15-70-520 reserved.

15-70-521. Denaturing ethanol — refund authorized. An ethanol distributor who, for the purpose of denaturing ethanol distilled in Montana, purchases gasoline on which the Montana gasoline tax has been paid is entitled to a refund, computed as allowed in 15-70-425, of tax paid on the gasoline used.

History: En. Sec. 8, Ch. 649, L. 1983; amd. Sec. 14, Ch. 100, L. 2007; amd. Sec. 31, Ch. 220, L. 2015.

15-70-522. Tax incentive for production of ethanol — rules. (1) (a) If the ethanol is produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol is produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-403.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based on the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-410.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4.

History: En. Sec. 9, Ch. 649, L. 1983; amd. Sec. 3, Ch. 697, L. 1985; amd. Sec. 1, Ch. 593, L. 1989; amd. Sec. 8, Ch. 512, L. 1991; amd. Sec. 2, Ch. 723, L. 1991; amd. Sec. 1, Ch. 592, L. 1993; amd. Sec. 1, Ch. 510, L. 1997; amd. Sec. 1, Ch. 532, L. 2001; amd. Sec. 1, Ch. 535, L. 2003; amd. Sec. 6, Ch. 452, L. 2005; amd. Sec. 15, Ch. 100, L. 2007; amd. Sec. 10, Ch. 277, L. 2009; amd. Sec. 32, Ch. 220, L. 2015.

15-70-523. Application for payment of tax incentive. (1) The claimant shall apply for payment of the tax incentive by signed statement on a form furnished by the department. The form must be accompanied by:

(a) the original production records and invoices issued to the ethanol-blended gasoline dealer at the time of sale and delivery, showing total gallons of ethanol sold; and

(b) a certificate of blending issued by the ethanol purchaser showing the total gallons of ethanol blended and the date of blending.

(2) Application for the payment of the tax incentives must be filed with the department not later than the 25th day of the calendar month following the month for which the claim is being made.

History: En. Sec. 10, Ch. 649, L. 1983; amd. Sec. 4, Ch. 697, L. 1985; amd. Sec. 16, Ch. 100, L. 2007.

15-70-524 through 15-70-526 reserved.

15-70-527. Penalty for failure to file. An ethanol distributor who fails to obtain a license under 15-70-511 or to file the statements required by 15-70-512 in the manner or within the time provided in 15-70-512 or who makes any false statement is guilty of a misdemeanor and upon conviction shall be fined not more than $1,000 or imprisoned in the county jail for not more than 6 months, or both.

History: En. Sec. 11, Ch. 649, L. 1983; amd. Sec. 17, Ch. 100, L. 2007.

Part 6
Biodiesel Production Incentive (Repealed)

15-70-601. Repealed. Sec. 2, Ch. 32, L. 2017.

History: En. Sec. 3, Ch. 524, L. 2005.

Part 7
Alternative Fuel Tax

15-70-701. Definitions. As used in this part, the following definitions apply:

(1) (a) "Alternative fuel" means a gas, liquid, or other fuel that, with or without adjustment or manipulation such as adjustment or manipulation of pressure or temperature, is capable of being used for the generation of power to propel a motor vehicle. The term includes but is not limited to compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or hydrogen compressed natural gas, such as hythane.

(b) The term does not include motor fuel, leaded racing fuel, or an excluded liquid.

(2) "Alternative fuel dealer" means a person that is licensed or required to be licensed under 15-70-702 that delivers alternative fuel into the fuel supply tank or tanks of a motor vehicle.

(3) "Bond" means:

(a) a bond executed by an alternative fuel dealer as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, conditioned on performance of all requirements of this part, including the payment of all taxes, penalties, and other obligations of the alternative fuel dealer arising out of this part; or

(b) a deposit with the department by the alternative fuel dealer, under terms and conditions that the department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(4) "Compressed natural gas" means a product that is used as a fuel and that contains carbon or hydrogen, or both, and is compressed to greater than 24 pounds per square inch absolute base pressure and up to 3,600 pounds per square inch absolute base pressure when sold for use in motor vehicles operated on the public roads and highways of this state.

(5) "Department" means the department of transportation.

(6) "Hydrogen fuel" means fuel that produces energy by combining hydrogen and oxygen atoms.

(7) "Liquefied petroleum gas" means any petroleum product that is sold for use in motor vehicles and that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons:

(a) propane;

(b) propylene;

(c) butane, including normal butane or isobutane; or

(d) butylene.

(8) "Motor vehicle" means any vehicle that is self-propelled by alternative fuel and that is driven on the public roads and highways of this state.

(9) (a) "Person" means a person, firm, association, joint-stock company, syndicate, partnership, or corporation.

(b) When used in any clause prescribing and imposing a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, person means the partners or members of a firm, association, syndicate, or partnership. As applied to a joint-stock company or corporation, the term means the officers of the joint-stock company or corporation.

(10) "Public roads and highways of this state" means all streets, roads, highways, and related structures that are:

(a) built and maintained with appropriated funds of the United States, the state of Montana, or any political subdivision of the state;

(b) dedicated to public use;

(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any political subdivision of the state.

History: En. Sec. 1, Ch. 405, L. 1995; amd. Sec. 1, Ch. 125, L. 1997; amd. Sec. 29, Ch. 125, L. 2001; amd. Sec. 3, Ch. 399, L. 2023.

15-70-702. Alternative fuel dealer's license. A person may not act as an alternative fuel dealer in this state unless the person holds a valid alternative fuel dealer's license issued by the department.

History: En. Sec. 2, Ch. 405, L. 1995; amd. Sec. 2, Ch. 125, L. 1997; amd. Sec. 4, Ch. 399, L. 2023.

15-70-703. Application for license. An application for an alternative fuel dealer's license must be filed on a form prescribed by the department. The application must contain information that the department considers necessary.

History: En. Sec. 3, Ch. 405, L. 1995; amd. Sec. 3, Ch. 125, L. 1997; amd. Sec. 5, Ch. 399, L. 2023.

15-70-704. Bonding, release of surety, and additional bond. (1) Except as provided in this section, an alternative fuel dealer's license may not be issued to a person and may not be continued in force unless the person has furnished a bond, in a form prescribed by the department, to secure the dealer's compliance with this part and has paid all taxes, interest,

and penalties due under this part. The department shall waive the bond requirement of an alternative fuel dealer who is not subject to the provisions of subsection (2)(a) or (2)(b).

(2) The total amount of the bond or bonds required must be equivalent to twice the alternative fuel dealer's estimated quarterly tax payments but may not be less than $1,000 for any alternative fuel dealer who:

(a) requests an alternative fuel dealer's license to be reissued after the license was canceled for cause; or

(b) fails to file timely reports and pay the tax due as required by 15-70-714.

(3) A surety on a bond furnished as provided in this section must be released and discharged from any liability to the state accruing on the bond after 30 days from the date when the surety has provided to the department a written request to be released and discharged. However, this provision may not operate to relieve, release, or discharge the surety from any liability already accrued or that accrues before the expiration of the 30-day period. On receiving a release request, the department shall promptly notify the alternative fuel dealer who furnished the bond, and unless the dealer, on or before the expiration of the 30-day period, files a new bond in accordance with the requirements of this section or makes a deposit in lieu of a bond as described in 15-70-701(3)(b), the department shall cancel the dealer's license.

(4) The department may require an alternative fuel dealer to give a new or additional surety bond or to deposit additional securities pursuant to 15-70-701(3)(b) if the department determines that the security of the surety bond previously filed by the dealer or the market value of the property deposited as security by the dealer is impaired or inadequate. If the alternative fuel dealer fails to give an additional surety bond or to deposit additional securities within 30 days after being requested to do so by the department, the department shall cancel the dealer's license.

History: En. Sec. 4, Ch. 405, L. 1995; amd. Sec. 4, Ch. 125, L. 1997; amd. Sec. 1, Ch. 38, L. 1999; amd. Sec. 6, Ch. 399, L. 2023.

15-70-705. Issuance of license — grounds for refusal — hearing. (1) Except as provided in subsection (2), on receipt of the application and bond in proper form, the department shall issue to the applicant a license to act as an alternative fuel dealer. A license is valid until suspended, revoked for cause, or otherwise canceled.

(2) The department may refuse to issue an alternative fuel dealer's license to any person:

(a) who formerly held a license that, prior to the time of filing the application, has been revoked for cause;

(b) who is not the real party in interest, and the license of the real party in interest has been revoked for cause prior to the time of filing the application; or

(c) on other sufficient cause being shown.

(3) Before refusing to issue a license, the department shall grant the applicant a hearing and shall provide the dealer with at least 10 days' written notice of the time and place of hearing.

(4) An alternative fuel dealer's license is not transferable.

History: En. Sec. 5, Ch. 405, L. 1995; amd. Sec. 5, Ch. 125, L. 1997; amd. Sec. 7, Ch. 399, L. 2023.

15-70-706. Revocation of license — notice. (1) The department may revoke the license of any alternative fuel dealer for reasonable cause. Before revoking a license, the department shall notify the licensee of the department's intent to revoke the license. The notice must be made by certified mail addressed to the licensee's last-known address shown in the files of the department. The notice must include a statement that the licensee has the right to appear before the department at a time specified in the notice and to show cause, if any, why the license should not be revoked. The time specified by the department may not be more than 30 days or less than 10 days from the date of the notice. At any time prior to and during the hearing, the department may in the exercise of reasonable discretion suspend the license.

(2) On revocation of a license, the licensee shall immediately surrender the license to the department for cancellation.

History: En. Sec. 6, Ch. 405, L. 1995; amd. Sec. 6, Ch. 125, L. 1997; amd. Sec. 8, Ch. 399, L. 2023.

15-70-707. Cancellation of license on surrender. The department shall cancel a license to act as an alternative fuel dealer immediately on surrender of the license by the licensee.

History: En. Sec. 7, Ch. 405, L. 1995; amd. Sec. 7, Ch. 125, L. 1997; amd. Sec. 9, Ch. 399, L. 2023.

15-70-708 through 15-70-710 reserved.

15-70-711. Tax on compressed natural gas, hydrogen fuel, liquefied petroleum gas, and alternative fuels. (1) An alternative fuel dealer shall collect the tax on compressed natural gas from the user at the time that the compressed natural gas is placed into the supply tank of a motor vehicle.

(2) (a) The total tax due on compressed natural gas is computed according to the formula provided in subsection (2)(b).

(b) T = (R/V) x TV, where:

(i) T is the total tax due;

(ii) R is 7 cents;

(iii) V is 120 cubic feet of compressed natural gas at 14.73 pounds per square inch absolute base pressure; and

(iv) TV is the total volume of compressed natural gas placed into the supply tank of a motor vehicle.

(3) The alternative fuel dealer shall pay the tax to the department as provided in 15-70-714.

(4) An alternative fuel dealer shall collect the tax on liquefied petroleum gas from the user at the time that the liquefied petroleum gas is placed into the supply tank of a motor vehicle.

(5) (a) The total tax due on liquefied petroleum gas is computed according to the formula provided in subsection (5)(b).

(b) T = (C/G) x TG, where:

(i) T is the total tax due;

(ii) C is 5.18 cents;

(iii) G is 1 gallon of liquefied petroleum gas; and

(iv) TG is the total gallons of liquefied petroleum gas placed into the supply tank of a motor vehicle.

(6) The alternative fuel dealer shall pay the tax to the department as provided in 15-70-714.

(7) (a) The total tax due on hydrogen fuel is computed according to the formula provided in subsection (7)(b).

(b) T = KG x R, where:

(i) T is the total tax due;

(ii) KG is the total kilograms of hydrogen placed in the supply tank of a motor vehicle; and

(iii) R is the gasoline tax rate provided for in 15-70-403.

(8) The alternative fuel dealer shall pay the tax to the department as provided in 15-70-714.

(9) A tax is imposed on alternative fuels not listed in subsection (2), (5), or (7). The tax due on other alternative fuels is computed according to the gasoline gallon equivalency by type of alternative fuel based on the current fuel properties comparison chart published by the U.S. department of energy multiplied by the gasoline tax rate provided for in 15-70-403.

(10) The United States, the state of Montana, and any political subdivision of this state are exempt from the levy and imposition of this tax.

History: **En. Sec. 8, Ch. 405, L. 1995; amd. Sec. 8, Ch. 125, L. 1997; amd. Sec. 10, Ch. 399, L. 2023.**

15-70-712. Recordkeeping. (1) Each alternative fuel dealer and each person importing, manufacturing, refining, dealing in, transporting, or storing alternative fuel in this state shall keep all records, receipts, invoices, and other pertinent documents that the department may require and shall produce them for the inspection of the department at any time during regular business hours.

(2) The records, receipts, invoices, and other pertinent documents must be kept for a period of at least 3 years from the date on which the return to which they relate was required to have been made.

History: **En. Sec. 9, Ch. 405, L. 1995; amd. Sec. 9, Ch. 125, L. 1997; amd. Sec. 11, Ch. 399, L. 2023.**

15-70-713. Examination of records — enforcement — reciprocity. (1) The department shall enforce the provisions of this part.

(2) The department or its authorized representative may examine the records, receipts, invoices, documents, and equipment of any alternative fuel dealer or any person importing, manufacturing, refining, dealing in, transporting, or storing alternative fuel and may investigate the character of the disposition that any person makes of alternative fuel in order to determine

whether all taxes due under this part are being properly reported and paid. If the records, receipts, invoices, documents, and equipment are not maintained in this state at the time of demand, they must be furnished at the direction of the department or at the business location of the dealer or other person and must, if requested by the department, be accompanied by the dealer or other person.

(3) The department shall, on request from an official who is responsible for the enforcement of the alternative fuel tax law of any other state, the District of Columbia, the United States, a territory or possession of the United States, or a province of Canada, forward to the official any information that it has relative to the receipt, storage, delivery, sale, use, or other disposition of alternative fuel by any alternative fuel dealer if the other governmental entity furnishes similar information to the department.

History: En. Sec. 10, Ch. 405, L. 1995; amd. Sec. 10, Ch. 125, L. 1997; amd. Sec. 12, Ch. 399, L. 2023.

15-70-714. Returns required — payment. (1) For the purpose of determining the amount of liability for the tax due under this part, an alternative fuel dealer shall file with the department a quarterly tax return on forms prescribed by the department.

(2) The dealer shall file the return on or before the last day of the next calendar month following the quarter to which it relates. For good cause, the department may grant a taxpayer a reasonable extension of time for filing, but the extension may not exceed 30 days.

(3) The tax return must be accompanied by payment of the amount of tax due under 15-70-711 for alternative fuel sold during the preceding quarter.

History: En. Sec. 11, Ch. 405, L. 1995; amd. Sec. 11, Ch. 125, L. 1997; amd. Sec. 2, Ch. 38, L. 1999; amd. Sec. 13, Ch. 399, L. 2023.

15-70-715. Penalties for refusal or failure to file return or pay tax when due. (1) If an alternative fuel dealer refuses or fails to file a return required by this part within the time prescribed by 15-70-103 and 15-70-714, there is imposed a penalty of $25 or a sum equal to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for each calendar month or fraction of a month during which the refusal or failure continues. If an alternative fuel dealer establishes to the satisfaction of the department that the failure to file a return within the time prescribed was due to reasonable cause, the department shall waive the penalty imposed by this section.

(2) Whenever an alternative fuel dealer files a return but fails to pay in whole or in part the tax due under this part, there must be added to the unpaid amount due interest at the rate of 1% a month or fraction of a month from the date on which the tax was due to the date of payment in full.

History: En. Sec. 12, Ch. 405, L. 1995; amd. Sec. 12, Ch. 125, L. 1997; amd. Sec. 14, Ch. 399, L. 2023.

15-70-716. Deficiency — penalty. If the department determines that the tax reported by an alternative fuel dealer is deficient, the department shall assess the deficiency on the basis of information available to the department. There must be added to the deficiency interest on the deficient amount at the rate of 1% a month or fraction of a month from the date on which the return was due.

History: En. Sec. 13, Ch. 405, L. 1995; amd. Sec. 13, Ch. 125, L. 1997; amd. Sec. 15, Ch. 399, L. 2023.

15-70-717. Determination if no return made — penalty — presumption. (1) If an alternative dealer, whether or not the dealer is licensed, fails, neglects, or refuses to file an alternative fuel tax return when due, the department shall, on the basis of information available to the department, determine the tax liability of the alternative fuel dealer for the period during which a return was not filed and add to the tax determined the penalty and interest provided for in 15-70-715.

(2) An assessment made by the department pursuant to 15-70-715, 15-70-716, or this section is presumed to be correct. Whenever the validity of the assessment is in question, the burden is on the person who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or excessive.

History: En. Sec. 14, Ch. 405, L. 1995; amd. Sec. 14, Ch. 125, L. 1997; amd. Sec. 16, Ch. 399, L. 2023.

15-70-718. Fraudulent return — penalty. If an alternative fuel dealer files a fraudulent return with intent to evade the tax imposed by this part:

(1) there must be added to the amount of deficiency determined by the department a penalty equal to 25% of the deficiency, together with interest at the rate of 1% a month or fraction of a month on the deficiency from the date on which the tax was due to the date of payment. The penalty and interest are in addition to all other penalties prescribed by law.

(2) the person is guilty of a misdemeanor and on conviction shall be punishable by a fine of not less than $100 or more than $2,000 or imprisonment of not less than 30 days or more than 6 months, or both.

History: En. Sec. 15, Ch. 405, L. 1995; amd. Sec. 15, Ch. 125, L. 1997; amd. Sec. 17, Ch. 399, L. 2023.

15-70-719. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded after the lien is filed by the department. An action may not be maintained to enjoin the collection of all or any part of the tax.

History: En. Sec. 16, Ch. 405, L. 1995; amd. Sec. 33, Ch. 220, L. 2015.

15-70-720. Statute of limitations. Except in the case of a fraudulent return or of neglect or refusal to make a return, a deficiency must be assessed within 3 years from the due date of the return or the date of filing the return.

History: En. Sec. 17, Ch. 405, L. 1995.

Part 8
Electric Vehicles

15-70-801. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Charging station" means equipment with a rated capacity greater than 25 kilowatts that is not installed at a residence or owned by an association of real property owners, including a homeowners' association as defined in 70-17-901, and that transfers electric current to an electric vehicle and the real property to which the equipment is affixed. The term includes a public charging station.

(2) "Charging station operator" means a person, firm, general partnership, limited partnership, limited liability partnership, corporation, limited liability company, or other lawfully recognized business entity that operates a public charging station.

(3) "Charging station owner" means the entity that is the public utility customer or a public utility that owns a public charging station.

(4) "Public charging station" means a charging station that delivers electric current to an electric vehicle and charges the customer either for the electricity transferred or for the duration of time during which the transfer of electricity takes place.

(5) "Public utility" has the same meaning as defined in 69-3-101.

History: En. Sec. 1, Ch. 619, L. 2023; amd. Sec. 1, Ch. 216, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 216, L. 2025. Amendment effective July 1, 2025.

15-70-802. Public charging station tax. (1) There is a tax of 3 cents a kilowatt hour on electricity delivered to a public charging station.

(2) The tax authorized by this section is in addition to the public utility's rate and measured at the utility's meter.

History: En. Sec. 2, Ch. 619, L. 2023; amd. Sec. 2, Ch. 216, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 216, L. 2025. Amendment effective July 1, 2025.

15-70-803. Installation of electric meters. (1) All public charging stations must have a separate electric meter installed or approved by the public utility that measures the electricity delivered to the public charging station. The charging station owner shall pay the cost of meter installation.

(2) It is the public charging station owner's responsibility to comply with the provisions of this section and not the duty of the public utility to enforce compliance.

History: En. Sec. 3, Ch. 619, L. 2023; amd. Sec. 3, Ch. 216, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 216, L. 2025. Amendment effective July 1, 2025.

15-70-804. Public charging station rate disclosure. A public charging station operator shall disclose at the public charging station site the rate for electric power transferred to an electric vehicle.

History: En. Sec. 4, Ch. 619, L. 2023; amd. Sec. 4, Ch. 216, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 216, L. 2025. Amendment effective July 1, 2025.

15-70-805. Public charging station operator statements and tax payment — rulemaking. (1) All public charging stations must be registered with the department of transportation no later than 30 days after the first day of operation.

(2) When registering the public charging station with the department of transportation, the public charging station owner shall provide the following information:

(a) name, mailing address, telephone number, and e-mail address of the owner;

(b) street address for the physical location of the public charging station;

(c) the public charging station's rated capacity in kilowatts; and

(d) additional information as required by the department.

(3) (a) The public utility shall collect the tax levied in 15-70-802 in its monthly invoice to the public charging station owner and remit the proceeds as calculated in subsection (3)(b) to the department of transportation within 30 days following the preceding calendar quarter when the tax was collected.

(b) The public utility shall remit 2.75 cents for each kilowatt hour of electricity sold to a public charging station owner to the department of transportation and is authorized to retain 0.25 cents per kilowatt hour to cover costs associated with collecting the tax.

(c) The public utility may create a new class of customers for billing at its discretion consisting solely of public charging stations.

(d) The billing rate for public charging stations must include the tax levied in 15-70-802 in addition to the public utility's approved rate or tariff.

(e) Taxes collected in accordance with this section are not subject to review or approval by the public service commission and are exempt from 69-3-305.

(4) The department of transportation may adopt rules to implement this section.

(5) The revenue derived from 15-70-802 must be deposited in the highway restricted account provided for in 15-70-126.

History: En. Sec. 5, Ch. 619, L. 2023; amd. Sec. 5, Ch. 216, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 216, L. 2025. Amendment effective July 1, 2025.

CHAPTER 71
LICENSE TAX ON VEHICLES PROPELLED BY LIQUEFIED PETROLEUM GAS (Repealed and Terminated)

Part 1 — General Provisions (Repealed and Terminated)

Part 1
General Provisions (Repealed and Terminated)

15-71-101. Repealed. Sec. 17, Ch. 125, L. 1997.

History: En. 84-1862 by Sec. 3, Ch. 473, L. 1975; amd. Sec. 1, Ch. 47, L. 1977; R.C.M. 1947, 84-1862; amd. Sec. 1, Ch. 595, L. 1987; amd. Sec. 1, Ch. 94, L. 1991; amd. Sec. 3, Ch. 512, L. 1991.

15-71-102. Repealed. Sec. 17, Ch. 125, L. 1997.
History: En. 84-1862.1 by Sec. 2, Ch. 47, L. 1977; R.C.M. 1947, 84-1862.1; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 5, Ch. 575, L. 1993; amd. Sec. 19, Ch. 405, L. 1995.

15-71-103. Repealed. Sec. 17, Ch. 125, L. 1997.
History: En. 84-1863 by Sec. 4, Ch. 473, L. 1975; amd. Sec. 3, Ch. 47, L. 1977; R.C.M. 1947, 84-1863.

15-71-104. Repealed. Sec. 17, Ch. 125, L. 1997.
History: En. 84-1865 by Sec. 6, Ch. 473, L. 1975; R.C.M. 1947, 84-1865; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 19, Ch. 455, L. 1993; amd. Sec. 22, Ch. 18, L. 1995; amd. Sec. 13, Ch. 509, L. 1995.

15-71-105. Repealed. Sec. 17, Ch. 125, L. 1997.
History: En. 84-1864 by Sec. 5, Ch. 473, L. 1975; R.C.M. 1947, 84-1864.

15-71-106 through 15-71-109 reserved.

15-71-110. Repealed. Sec. 17, Ch. 125, L. 1997.
History: En. Sec. 3, Ch. 428, L. 1993.

15-71-111. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.
History: En. Sec. 19, Ch. 15, Sp. L. July 1992.

CHAPTER 72
ELECTRICAL GENERATION TAX AND INVASIVE SPECIES FEE

Part 1 — Electrical Generation Tax Reform Act

15-72-101. Short title.
15-72-102. Legislative findings and declaration of purpose.
15-72-103. Definitions.
15-72-104. Wholesale energy transaction tax — rate of tax — exemptions — cost recovery.
15-72-105. Multistate exemption.
15-72-106. Collection of wholesale energy transaction tax — disposition of revenue.
15-72-107 through 15-72-109 reserved.
15-72-110. Returns — payment — authority of department.
15-72-111. Examination of return — adjustments — delivery of notices and demands.
15-72-112. Penalties and interest for violation.
15-72-113. Authority to collect delinquent taxes.
15-72-114. Penalty and interest on deficiency.
15-72-115. Limitations.
15-72-116. Refunds — interest — limitations.
15-72-117. Administration — rules.

Parts 2 through 5 reserved

Part 6 — Invasive Species Fee

15-72-601. Invasive species fee for hydroelectric facilities.
15-72-602. Terminated.

Part 1
Electrical Generation Tax Reform Act

15-72-101. Short title. This part may be cited as the "Electrical Generation Tax Reform Act".
History: En. Sec. 1, Ch. 556, L. 1999.

15-72-102. Legislative findings and declaration of purpose. (1) The legislature finds that the restructuring of the electric utility industry in Montana implemented by Chapter 505, Laws of 1997, including the unbundling of services and the provision that allows Montana customers to choose their supplier of electricity and related services in a competitive market, renders the existing method of property taxation of the electric utility industry an impediment to competition.

(2) The legislature further finds that the restructuring of the electric utility industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to electrical generation facilities and imposing a replacement tax in order to:

(a) avoid placing a supplier engaged in the business of generating, supplying, or selling electricity at a competitive advantage or disadvantage;

(b) preserve the revenue base of the existing property tax system for taxing jurisdictions in the state;

(c) minimize the shift in tax burden and the imposition of a higher tax burden on consumers of electricity; and

(d) minimize additional administrative costs and the burden of compliance.

(3) The legislature further finds that a reduction in the property tax rates applied to electrical generation facilities must be replaced by a wholesale energy transaction tax imposed on each kilowatt hour of electricity transmitted in the state.

(4) The legislature further finds that existing property tax rates applied to electrical transmission and distribution systems are appropriate for a regulated function.

(5) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of electrical generation facilities and to impose a wholesale energy transaction tax on kilowatt hours of electricity transmitted in the state to ensure competitive neutrality and to provide replacement revenue to taxing jurisdictions in the state.

History: En. Sec. 2, Ch. 556, L. 1999; amd. Sec. 39, Ch. 114, L. 2003.

15-72-103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration electricity for use or consumption and not for resale.

(2) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of electricity to the public. A distribution services provider includes a purchaser who takes electricity directly from a transmission line or substation and a purchaser who generates electricity for the purchaser's own use but does not include electricity generated by the purchaser for noncommercial use or for agricultural use.

(3) "Person" means an individual, estate, trust, receiver, cooperative association, corporation, limited liability company, firm, partnership, joint venture, syndicate, or other entity, including any gas or electric utility owned or operated by a county, municipality, or other political subdivision of the state.

(4) "Transmission services provider" means a person or entity controlling or operating facilities used for the transmission of electricity.

History: En. Sec. 3, Ch. 556, L. 1999; amd. Sec. 1, Ch. 491, L. 2007.

15-72-104. Wholesale energy transaction tax — rate of tax — exemptions — cost recovery. (1) (a) Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted within the state as provided in this section. The tax is imposed at a rate of 0.015 cent per kilowatt hour of electricity transmitted by a transmission services provider in the state.

(b) For electricity produced in the state for delivery outside the state, the taxpayer is the person owning or operating the electrical generation facility producing the electricity. The transmission services provider shall collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate for transmission line losses.

(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for overpayment of taxes pursuant to 15-72-116.

(d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(e) For electricity delivered to a distribution services provider that is a rural electric cooperative for delivery to purchasers that have opted for customer choice under the provisions

of Title 69, chapter 8, part 3, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based on the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to customers that have opted for customer choice.

(f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(2) (a) If more than one transmission services provider transmits electricity, the last transmission services provider transmitting or delivering the electricity shall collect the tax.

(b) If the transmission services provider is an agency of the United States government, the distribution services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

(c) If an electrical generation facility located within the state produces electricity for sale inside and outside the state, sales within the state are considered to have come from electricity produced within the state for purposes of the tax imposed by this section.

(3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt from the tax imposed by this section.

(b) Electricity produced in the state by an agency of the United States government or electricity produced from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001, that is within the exterior boundaries of a Montana Indian reservation for delivery outside the state is exempt from the tax imposed by this section.

(c) Electricity produced by wind turbines erected on state land for which annual lease payments are made to the permanent school trust fund is exempt from the tax imposed by this section.

(d) Electricity delivered to a distribution services provider that is a municipal utility described in 69-8-103(4)(b) or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is exempt from the tax imposed by this section.

(e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is transmitted exclusively on transmission or distribution facilities owned by an entity of the United States government on or before May 2, 1997, is exempt from the tax imposed by this section.

(4) A distribution services provider is allowed to recover the tax imposed by this section and the administrative costs to comply with this part in its rates.

History: En. Sec. 4, Ch. 556, L. 1999; amd. Sec. 3, Ch. 541, L. 2001; amd. Sec. 16, Ch. 591, L. 2001; amd. Sec. 2, Ch. 491, L. 2007.

15-72-105. Multistate exemption. A person, upon proof that the person has paid a tax in another state on the transmission of electricity, is allowed a credit against the tax imposed by this part if the tax has been paid in another state.

History: En. Sec. 5, Ch. 556, L. 1999.

15-72-106. Collection of wholesale energy transaction tax — disposition of revenue. (1) A transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by 15-72-104, both the tax and the excess must be remitted to the department.

(2) A self-assessing distribution services provider is subject to the provisions of this part.

(3) The wholesale energy transaction tax collected under this part must, in accordance with the provisions of 17-2-124, be deposited in the general fund.

History: En. Sec. 6, Ch. 556, L. 1999; amd. Sec. 17, Ch. 475, L. 2007.

15-72-107 through 15-72-109 reserved.

15-72-110. Returns — payment — authority of department. (1) On or before the 30th day of the month following the end of the calendar quarter in which the tax imposed by this part is payable, a return, on a form provided by the department, and payment of the tax for the preceding calendar quarter must be filed with the department.

(2) Each person engaged in transmitting electricity in this state that is subject to the tax under this part shall file a return.

(3) (a) A person required to collect and pay to the department the tax imposed by this part shall keep records, render statements, make returns, and comply with the provisions of this part and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of this part, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

History: En. Sec. 7, Ch. 556, L. 1999.

15-72-111. Examination of return — adjustments — delivery of notices and demands. (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to 15-72-110 constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 30 days after notice of the amount and demand for payment is mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

History: En. Sec. 8, Ch. 556, L. 1999.

15-72-112. Penalties and interest for violation. (1) (a) A person who fails to file a return as required by 15-72-110 must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the return required by 15-72-110 and to pay the tax on or before the due date must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216.

History: En. Sec. 9, Ch. 556, L. 1999; amd. Sec. 4, Ch. 364, L. 2009.

15-72-113. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

History: En. Sec. 10, Ch. 556, L. 1999.

15-72-114. Penalty and interest on deficiency. Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

History: En. Sec. 11, Ch. 556, L. 1999; amd. Sec. 39, Ch. 594, L. 2005.

15-72-115. Limitations. (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of this part, a deficiency may not be assessed or collected with respect to a month or quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

History: En. Sec. 12, Ch. 556, L. 1999.

15-72-116. Refunds — interest — limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under this part must be filed within 5 years of the date on which the return was due, without regard to any extension of time for filing.

(2) (a) Interest on an overpayment must be paid or credited at the same rate as the interest rate charged on unpaid taxes as provided in 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date on which the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date on which a claim was filed; or

(ii) the amount of overpayment and interest does not exceed $1.

History: En. Sec. 13, Ch. 556, L. 1999.

15-72-117. Administration — rules. The department shall:

(1) administer and enforce the provisions of this part;

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of this part; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of this part.

History: En. Sec. 14, Ch. 556, L. 1999.

Parts 2 through 5 reserved

Part 6
Invasive Species Fee

15-72-601. Invasive species fee for hydroelectric facilities. (1) In recognition of the threat that invasive species pose to Montana's hydroelectric power structures and systems, a hydroelectric facility shall pay a quarterly invasive species fee of $397.88 per megawatt of the facility's nameplate capacity authorized by the federal energy regulatory commission.

(2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.

(3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

(4) The department may audit the records and other documents of a hydroelectric facility to ensure that the proper fee is paid and collected pursuant to this section.

(5) A hydroelectric facility that funds protection, mitigation, and enhancement measures pursuant to a settlement approved by the federal energy regulatory commission may use any of those funds that are unobligated to pay, in whole or in part, the fee owed pursuant to subsection (1).

(6) Money collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

(7) For the purposes of this section, "hydroelectric facility" means an operating facility located in Montana in a watercourse as that term is defined in 85-2-102 that produces electricity using water power and has more than 1.5 megawatts in nameplate capacity.

History: En. Sec. 2, Ch. 387, L. 2017; amd. Sec. 3, Ch. 356, L. 2019; amd. Sec. 1, Ch. 499, L. 2021.

15-72-602. Terminated. Sec. 21(3), Ch. 387, L. 2017.

History: En. Sec. 3, Ch. 387, L. 2017.

Part 2 through 5 reserved

Part 6

Invasive Species Fee

TITLE 16

ALCOHOL, TOBACCO, AND MARIJUANA

Ch.
1. Administration and Taxation of Alcohol.
2. Liquor Stores.
3. Control of Liquor, Beer, and Wine.
4. License Administration.
5. Identification Cards. Repealed.
6. Enforcement.
Chapters 7 through 9 reserved.
10. Regulation of Cigarette Marketing.
11. Taxation of Tobacco Products.
12. Marijuana Regulation and Taxation.

CHAPTER 1
ADMINISTRATION AND TAXATION OF ALCOHOL

Part 1 — General Provisions

16-1-101. Citation — declaration of policy — subject matters of regulation.
16-1-102. Policy as to sale of beer.
16-1-103. Policy as to retail sale of liquor.
16-1-104. Intent and construction of code.
16-1-105. Divisions of code.
16-1-106. Definitions.

Part 2 — Scope of Code and Exemptions

16-1-201. Acts not covered by code.
16-1-202. Preparations not subject to code.
16-1-203. Health professions exemption.
16-1-204. Licensed hospital or health care facility.
16-1-205. Local option.

Part 3 — Department of Revenue Powers, Duties, and Limitations

16-1-301. Administration of code.
16-1-302. Functions, powers, and duties of department.
16-1-303. Department rules.
16-1-304. Prohibited acts.
16-1-305. Title to property and moneys — administrative expenses.
16-1-306. Revenue to be paid to state treasurer.
16-1-307. State-allowed industry trade shows — rulemaking.

Part 4 — Taxation of Alcoholic Beverages

16-1-401. Liquor excise tax.
16-1-402. Payment of excise tax by carriers.
16-1-403. Excise tax accounting methods — report forms — penalty and interest.
16-1-404. License tax on liquor — amount — distribution of proceeds.
16-1-405. Repealed.
16-1-406. Taxes on beer.
16-1-407. Repealed.
16-1-408. Repealed.
16-1-409. Repealed.
16-1-410. Repealed.
16-1-411. Tax on wine and hard cider — penalty and interest.
16-1-412. Deficiency assessment — penalty and interest — statute of limitations.
16-1-413. Procedure to compute tax in absence of statement — estimation of tax — failure to pay — penalty and interest.
16-1-414. Authority to collect delinquent taxes.
16-1-415. Refunds — interest — limitations.
16-1-416. Department rulemaking.
16-1-417 through 16-1-420 reserved.
16-1-421. Terminated.
16-1-422. Terminated.
16-1-423. Terminated.
16-1-424. Distillery — reporting — tax payment — penalties.

Part 1
General Provisions

16-1-101. Citation — declaration of policy — subject matters of regulation. (1) Chapters 1 through 4 and 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state subject to the authority of the state acting through the department.

(3) This code is an exercise of the police power of the state for the protection of the welfare, health, peace, morals, and safety of the people of the state and of the state's power under the 21st amendment to the United States constitution to control the transportation and importation of alcoholic beverages into the state. The overall purposes of this code under the 21st amendment to the United States constitution are to promote temperance, create orderly markets, and aid in the collection of taxes. The provisions of this code must be broadly construed to accomplish these purposes.

History: En. Sec. 1, Ch. 105, L. 1933; re-en. Sec. 2815.60, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1951; Sec. 4-101, R.C.M. 1947; amd. and redes. 4-1-101 by Sec. 1, Ch. 387, L. 1975; R.C.M. 1947, 4-1-101; amd. Sec. 1, Ch. 68, L. 1987; amd. Sec. 1, Ch. 543, L. 2001; amd. Sec. 22, Ch. 130, L. 2005; amd. Sec. 1, Ch. 181, L. 2009.

16-1-102. Policy as to sale of beer. It is the policy of the state of Montana that the manufacture, transportation, distribution, sale, and possession of "beer", as that term is defined in this code, must be controlled and regulated as provided under this code. Unless defined as beer in 16-1-106(5)(a)(ii), beer, porter, ale, stout, and malt liquors containing more than 8.75% alcohol by volume and that are defined as "liquor" are subject to the regulations and controls provided for liquor.

History: En. Sec. 1, Ch. 106, L. 1933; re-en. Sec. 2815.10, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1951; Sec. 4-301, R.C.M. 1947; amd. and redes. 4-1-102 by Sec. 45, Ch. 387, L. 1975; R.C.M. 1947, 4-1-102; amd. Sec. 1, Ch. 197, L. 2009.

16-1-103. Policy as to retail sale of liquor. It is the policy of the state that it is necessary to further regulate and control the sale and distribution of alcoholic beverages within the state and to ensure that the department has complete regulatory control of the sale of liquor in this state. It is advisable and necessary, in addition to the operation of the agency liquor stores now provided by law, that the department be empowered and authorized to grant licenses to persons qualified under this code to sell liquor purchased by them at agency liquor stores at retail posted price in accordance with this code and under rules promulgated by the department and under its strict supervision and control and to provide severe penalty for the sale of liquor except by and in agency liquor stores and by persons licensed under this code. The restrictions, regulations, and provisions contained in this code are enacted by the legislature for the protection, health, welfare, and safety of the people of the state.

History: En. Preamble, Ch. 84, L. 1937; Sec. 4-401, R.C.M. 1947; amd. and redes. 4-1-103 by Sec. 78, Ch. 387, L. 1975; R.C.M. 1947, 4-1-103; amd. Sec. 1, Ch. 5, L. 1979; amd. Sec. 12, Ch. 530, L. 1995.

Cross-References

Rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

16-1-104. Intent and construction of code. (1) The purpose and intent of this code are to:

(a) establish a state licensing system to control the transportation and importation of alcoholic beverages into Montana and the manufacture, sale, transportation, and distribution of alcoholic beverages within the state of Montana; and

(b) prohibit transactions in alcoholic beverages within the state of Montana except under state control as specifically provided by this code.

(2) Every section and provision of this code must be construed according to subsection (1).

History: En. Sec. 99, Ch. 105, L. 1933; re-en. Sec. 2815.159, R.C.M. 1935; Sec. 4-233, R.C.M. 1947; amd. and redes. 4-1-104 by Sec. 42, Ch. 387, L. 1975; R.C.M. 1947, 4-1-104; amd. Sec. 2, Ch. 68, L. 1987; amd. Sec. 2, Ch. 543, L. 2001.

Cross-References

Statutory construction, Title 1, ch. 2.

16-1-105. Divisions of code. This code is divided into six chapters. Chapter 1 relates to the authority of the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to the establishment of agency liquor stores and the keeping and selling of liquors. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5, now repealed, related to identification cards. Chapter 6 relates to enforcement.

History: En. Sec. 3, Ch. 105, L. 1933; re-en. Sec. 2815.62, R.C.M. 1935; Sec. 4-103, R.C.M. 1947; amd. and redes. 4-1-105 by Sec. 2, Ch. 387, L. 1975; R.C.M. 1947, 4-1-105; amd. Sec. 3, Ch. 68, L. 1987; amd. Sec. 53, Ch. 370, L. 1987; amd. Sec. 13, Ch. 530, L. 1995.

16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) (a) "Beer" means:

(i) a malt beverage containing not more than 8.75% of alcohol by volume; or

(ii) an alcoholic beverage containing not more than 14% alcohol by volume:

(A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and

(B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

(b) The term does not include a caffeinated or stimulant-enhanced malt beverage.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Board member" means an individual serving on the governing board of a corporation, nonprofit corporation, cooperative association, or similar business entity.

(8) "Brewer" means a person who produces malt beverages.

(9) "Business entity" means any organization formed under the laws of this state or another jurisdiction, including but not limited to a corporation, limited liability company, partnership, limited partnership, limited liability partnership, sole proprietorship, trust, nonprofit corporation, cooperative association, or any other legal entity recognized by law.

(10) "Caffeinated or stimulant-enhanced malt beverage" means:

(a) a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol;

(ii) that contains at least 0.5% of alcohol by volume;

(iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage:

(i) that contains at least 0.5% of alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine;

(v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and

(vi) that is not exempt pursuant to 27 CFR 25.55(f).

(11) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(12) "Concessionaire" means an entity that has a concession agreement with a licensed entity.

(13) "Cooperative association" means an entity organized under Title 35, chapter 15, or equivalent laws of another jurisdiction, operating on a cooperative basis for the mutual benefit of its members.

(14) "Corporation" means an entity organized under Title 35, chapter 14, or any other corporate entity organized under the laws of another jurisdiction and authorized to do business in Montana.

(15) "Curbside pickup" means the sale of alcoholic beverages that meets the requirements of 16-3-312.

(16) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(17) "Distributor" means a person importing into or purchasing in Montana beer, table wine, or sacramental wine for sale or resale to retailers licensed in Montana and a person importing into or purchasing in Montana table wine for sale or resale to agency liquor stores.

(18) "General partner" means a partner in a partnership who has management authority and personal liability for the obligations of the partnership.

(19) "General partnership" means a partnership formed under Title 35, chapter 10, or a partnership organized under the laws of another jurisdiction.

(20) "Growler" means any fillable, sealable container complying with federal law.

(21) (a) "Guest ranch" means a business or organization that provides guests with overnight lodging, dining, and onsite outdoor recreational activities typical of western ranching for the purposes of vacation or recreation. Recreational activities offered by a guest ranch may include but are not limited to horseback riding, wagon or sleigh rides, shooting, and working with livestock. The property of a guest ranch must be composed of at least 50 contiguous acres. The property must be located entirely outside the license quota area of an incorporated city or an incorporated town as determined under 16-4-105(1) or 16-4-201. The premises of a guest ranch may include restaurants, sporting and recreational equipment shops, event venues, arenas, and other facilities that may be used by other persons in addition to the overnight guests.

(b) The term does not include premises used as rehabilitation centers, group homes, clinics, nursing homes, church or other religious campgrounds, or other similar uses.

(22) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 8.5% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

(23) "Immediate family" means a spouse, dependent children, or dependent parents.

(24) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(25) "Limited liability company" means an entity organized under Title 35, chapter 8, or any other limited liability company organized under the laws of another jurisdiction and authorized to do business in Montana.

(26) "Limited liability partnership" means a partnership registered under Title 35, chapter 10, part 7, or the equivalent laws of another jurisdiction, where partners have limited liability for the partnership's obligations.

(27) "Limited partner" means a partner in a limited partnership whose liability is limited to their investment in the partnership and who does not participate in management.

(28) "Limited partnership" means a partnership formed under Title 35, chapter 12, or the equivalent laws of another jurisdiction, consisting of one or more general partners and one or more limited partners.

(29) "Liquor" means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

(30) "Location manager" means a person who provides general oversight of the alcoholic beverage operations and ensures compliance with alcoholic beverage laws and regulations. A location manager may be an owner of a license, an employee of the licensee, or a business entity that contracts to provide services for the licensee.

(31) "Malt beverage" means:

(a) an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption; or

(b) an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses that has not undergone distillation.

(32) "Managing member" means a member of a limited liability company who is designated to manage the company under its operating agreement or applicable law.

(33) "Member" means an owner of a limited liability company.

(34) "Nonprofit corporation" means a corporation organized under Title 35, chapter 2, or any similar laws of another jurisdiction that does not distribute income to its members, directors, or officers except as permitted by law.

(35) "Officer" means an individual elected or appointed to manage the daily operations of a business entity as provided in its governing documents or applicable law.

(36) (a) "Original package" means the sealed container in which a manufacturer packages its product for retail sale.

(b) The term includes but is not limited to:

(i) bottles;

(ii) cans; and

(iii) kegs.

(37) "Package" means a container or receptacle used for holding an alcoholic beverage.

(38) "Partner" means a person who shares ownership in a partnership, whether in a general partnership, limited partnership, or limited liability partnership.

(39) "Partnership" means an association of two or more persons to carry on as co-owners of a business for profit, including a general partnership, limited partnership, or limited liability partnership.

(40) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor stores, and a 20% markup.

(41) "Prepared serving" means a container of alcoholic beverages, filled at the time of sale and sealed with a lid, for consumption at a place other than the licensee's premises.

(42) "Privately held corporation" means a corporation that is not a publicly traded corporation and whose ownership interests are not offered or traded on a public market.

(43) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(44) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(45) "Publicly traded corporation" means a corporation whose securities are listed on a national securities exchange or otherwise traded in a public market.

(46) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(47) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(48) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

(49) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(50) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(51) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(52) "Subwarehouse" means a building or structure owned or operated by a licensed distributor, located at a site in Montana other than the site of the distributor's warehouse, and used for the receiving, storage, and distribution of beer, table wine, or sacramental wine as permitted by this code.

(53) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes hard cider.

(54) "Trust" means a fiduciary relationship in which one person, the trustee, holds legal title to property for the benefit of another person, the beneficiary.

(55) "Trustee" means a person or entity with legal responsibility to manage a trust's assets for the benefit of its beneficiaries.

(56) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed distributor for the receiving, storage, and distribution of beer, table wine, and sacramental wine as permitted by this code.

(57) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

History: Ap.p. Sec. 110, Ch. 387, L. 1975; Sec. 4-1-107, R.C.M. 1947; Ap.p. Sec. 14, Ch. 84, L. 1937; Sec. 4-416, R.C.M. 1947; amd. and redes. 4-2-204 by Sec. 93, Ch. 387, L. 1975; amd. Sec. 3, Ch. 496, L. 1977; Sec. 4-2-204, R.C.M. 1947; R.C.M. 1947, 4-1-107, 4-2-204(part); amd. Sec. 2, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 2, Ch. 5, L. 1979; amd. Sec. 2, Ch. 699, L. 1979; amd. Sec. 1, Ch. 519, L. 1981; amd. Sec. 1, Ch. 595, L. 1983; amd. Sec. 1, Ch. 16, L. 1985; amd. Sec. 1, Ch. 19, L. 1985; amd. Sec. 1, Ch. 141, L. 1985; amd. Sec. 4, Ch. 68, L. 1987; amd. Sec. 8, Ch. 314, L. 1991; amd. Sec. 1, Ch. 228, L. 1993; amd. Sec. 1, Ch. 414, L. 1993; amd. Sec. 14, Ch. 530, L. 1995; amd. Sec. 86, Ch. 42, L. 1997; amd. Sec. 1, Ch. 399, L. 1997; amd. Sec. 2, Ch. 110, L. 2003; amd. Sec. 1, Ch. 369, L. 2003; amd. Sec. 1, Ch. 101, L. 2009; amd. Sec. 2, Ch. 197, L. 2009; amd. Sec. 2, Ch. 414, L. 2009; amd. Sec. 1, Ch. 77, L. 2011; amd. Sec. 1, Ch. 115, L. 2013; amd. Sec. 3, Ch. 479, L. 2019; amd. Sec. 1, Ch. 25, L. 2021; amd. Sec. 2, Ch. 194, L. 2021; amd. Sec. 1, Ch. 33, L. 2023; amd. Sec. 1, Ch. 61, L. 2023; amd. Sec. 2, Ch. 138, L. 2023; amd. Sec. 2, Ch. 140, L. 2023; amd. Sec. 1, Ch. 585, L. 2023; amd. Sec. 1, Ch. 519, L. 2025; amd. Sec. 21, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 519, L. 2025. Amendment effective May 8, 2025.

See 2025 Session Law for amendment made by sec. 21, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Alcohol distributor defined, 15-70-503.

Barrel defined, 16-1-406, 30-12-101.

Definition of blood, breath, and urine alcohol concentration, 61-8-1001.

Part 2
Scope of Code and Exemptions

16-1-201. Acts not covered by code. (1) Nothing in this code prevents any brewer, distiller, or other person, licensed under the provisions of any statute of the United States of America for the manufacture of alcoholic beverages, from having or keeping alcoholic beverages in a place and in the manner authorized by or under any such statute.

(2) It is the policy of the state of Montana that the manufacture of alcoholic beverages, including the distillation, rectification, bottling, and processing as these terms are defined under the provisions of the laws of the United States, is authorized and permitted by any brewer, distiller, rectifier, or other person licensed under any provision of any statute of the United States of America in a place and in the manner authorized by or under any statute of the United States. The department may adopt rules that the department considers necessary with respect to the manufacture of alcoholic beverages. The rules may not be inconsistent with this code or with the statutes of the United States of America or regulations issued under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, inclusive, or regulations issued under the provisions of chapter 51 of the Internal Revenue Code.

(3) Nothing in this code prevents:

(a) the sale of liquor by any person to the department;

(b) the purchase, importation, and sale of liquor by the department for the purposes of and in accordance with this code.

History: En. Sec. 35, Ch. 105, L. 1933; re-en. Sec. 2815.94, R.C.M. 1935; amd. Sec. 1, Ch. 67, L. 1965; Sec. 4-140, R.C.M. 1947; amd. and redes. 4-1-202 by Sec. 14, Ch. 387, L. 1975; R.C.M. 1947, 4-1-202; amd. Sec. 5, Ch. 68, L. 1987; amd. Sec. 87, Ch. 42, L. 1997; amd. Sec. 2, Ch. 33, L. 2023.

Cross-References

Municipal regulation — location of distilleries, 7-21-4204.

16-1-202. Preparations not subject to code. (1) Subject to the provisions of this section, nothing in this code, by reason only that a preparation contains alcohol, prevents the manufacture, sale, purchase, or consumption of any:

(a) extract, essence, or tincture or other preparation containing alcohol that is prepared according to a formula of the United States Pharmacopoeia; or

(b) proprietary or patent medicine.

(2) The department, if of the opinion that any proprietary or patent medicine, extract, essence, tincture, or preparation that contains alcohol or any other preparation of a solid, semisolid, or liquid nature that contains alcohol can be used or that an extract from the substance can be used as a beverage or as the ingredient of a beverage, may prohibit the retail sale or the possession of the substance for retail sale within the state, except by an agency liquor store or by persons licensed by the department to keep and sell the substance by retail in accordance with this code and the regulations made under this code.

(3) The department shall notify the manufacturer or vendor of the proprietary or patent medicine, extract, essence, tincture, or preparation of the prohibition.

History: En. Sec. 36, Ch. 105, L. 1933; re-en. Sec. 2815.95, R.C.M. 1935; Sec. 4-141, R.C.M. 1947; amd. and redes. 4-1-203 by Sec. 15, Ch. 387, L. 1975; R.C.M. 1947, 4-1-203(part); amd. Sec. 88, Ch. 42, L. 1997; amd. Sec. 3, Ch. 33, L. 2023.

Cross-References

Patent medicine prohibition, 16-6-308.

16-1-203. Health professions exemption. A physician, dentist, veterinarian, or pharmacist, acting within the scope of the individual's professional responsibility and license to practice, who prescribes, prepares, or administers alcohol or substances containing alcohol and sells or charges a fee does not violate the prohibitions of this code.

History: En. 4-1-204 by Sec. 111, Ch. 387, L. 1975; R.C.M. 1947, 4-1-204; amd. Sec. 186, Ch. 56, L. 2009.

Cross-References

Licensing and regulation of physicians, dentists, veterinarians, and pharmacists, Title 37, ch. 2 through 7, 18.

16-1-204. Licensed hospital or health care facility. Any person in charge of an institution regularly conducted as a licensed hospital or health care facility may administer alcoholic beverages purchased by the person to any patient or inmate of the institution and may charge for the alcoholic beverages.

History: En. Sec. 34, Ch. 105, L. 1933; re-en. Sec. 2815.93, R.C.M. 1935; amd. Sec. 9, Ch. 154, L. 1965; Sec. 4-139, R.C.M. 1947; amd. and redes. 4-1-205 by Sec. 13, Ch. 387, L. 1975; R.C.M. 1947, 4-1-205(part); amd. Sec. 6, Ch. 68, L. 1987; amd. Sec. 187, Ch. 56, L. 2009.

Cross-References

Patient or inmate to be bona fide — penalty, 16-6-309.
Licensing and regulation of hospitals, Title 50, ch. 5.
Distribution to patients or inmates at state custodial institutions — misdemeanor, 53-1-103.

16-1-205. Local option. The electors of a county may, by approving an initiative as provided under 7-5-137 and Title 13, chapter 28, prohibit the sale and consumption of liquor or of all alcoholic beverages within the county. If the initiative is presented to the board of county commissioners, the board may not approve it but shall submit the proposal to the people as provided in 13-28-201.

History: En. 4-1-206 by Sec. 112, Ch. 387, L. 1975; R.C.M. 1947, 4-1-206; amd. Sec. 392, Ch. 571, L. 1979; amd. Sec. 13, Ch. 20, L. 1985; amd. Sec. 196, Ch. 49, L. 2015; amd. Sec. 23, Ch. 225, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 23, Ch. 225, L. 2025. Amendment effective April 17, 2025.

Applicability: Section 31, Ch. 225, L. 2025, provided: "[This act] applies to any local government ballot issue submitted to a local government for placement on the ballot on or after [the effective date of this act]." Effective April 17, 2025.

Part 3
Department of Revenue
Powers, Duties, and Limitations

16-1-301. Administration of code. The department shall have the powers and duties to administer the Montana Alcoholic Beverage Code, including the general control, management, and supervision of all agency liquor stores.

History: En. Sec. 4, Ch. 105, L. 1933; re-en. Sec. 2815.63, R.C.M. 1935; amd. Sec. 1, Ch. 30, L. 1937; amd. Sec. 1, Ch. 243, L. 1947; amd. Sec. 1, Ch. 140, L. 1949; amd. Sec. 1, Ch. 183, L. 1951; Sec. 4-107, R.C.M. 1947; amd. and redes. 4-1-301 by Sec. 3, Ch. 387, L. 1975; R.C.M. 1947, 4-1-301; amd. Sec. 15, Ch. 530, L. 1995.

Cross-References

City and county licenses — fees, 16-4-503.

16-1-302. Functions, powers, and duties of department. The department has the following functions, duties, and powers:

(1) to buy, import, have in its possession for sale, and sell liquors;

(2) to control the possession, sale, and delivery of liquors in accordance with the provisions of this code;

(3) to determine the municipalities where agency liquor stores are to be established throughout the state and the situation of the stores within these municipalities;

(4) to lease, furnish, and equip any building or land required to administer its duties under this code;

(5) to buy or lease plants and equipment necessary to administer its duties under this code;

(6) to employ the necessary employees required to administer this code and to dismiss them, assign them their title, and define their respective duties and powers and to contract with the department of justice for investigative services and to receive and process, but not grant or deny, applications or to contract for the services of experts and persons engaged in the practice of a profession, if appropriate. If the department contracts for the receipt and processing of an application by the department of justice, the application must state that it is to be filed with the department of justice.

(7) to determine the nature, form, and capacity of all packages to be used for containing alcoholic beverages kept or sold under this code;

(8) to grant and issue licenses, registrations, and permits under this code;

(9) to place special restrictions and allowances on the use of a particular license, which must be endorsed on the face of the license, if the special restrictions and allowances are made pursuant to a hearing held in connection with the issuance of the license or if the special restrictions and allowances are agreed to by the licensee;

(10) without limiting or being limited by the foregoing, to do all things necessary to administer this code or rules.

History: En. Sec. 8, Ch. 105, L. 1933; re-en. Sec. 2815.67, R.C.M. 1935; amd. Sec. 3, Ch. 154, L. 1965; Sec. 4-112, R.C.M. 1947; amd. and redes. 4-1-302 by Sec. 5, Ch. 387, L. 1975; R.C.M. 1947, 4-1-302; amd. Sec. 6, Ch. 699, L. 1979; amd. Sec. 3, Ch. 156, L. 1991; amd. Sec. 2, Ch. 414, L. 1993; amd. Sec. 16, Ch. 530, L. 1995; amd. Sec. 3, Ch. 110, L. 2003; amd. Sec. 4, Ch. 33, L. 2023; amd. Sec. 1, Ch. 81, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 81, L. 2025. Amendment effective April 7, 2025.

Cross-References

City and county licenses — fees, 16-4-503.

16-1-303. Department rules. (1) The department and the department of justice may make rules not inconsistent with this code necessary to efficiently administer this code.

(2) Rules made by the department may include but are not limited to the following:

(a) regulating the contractual operation of agency liquor stores and warehouses in which liquor is kept or sold and prescribing the books and records to be kept;

(b) prescribing the duties of department employees and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor and the furnishing of liquor to agency liquor stores;

(d) determining the classes, varieties, and brands of liquor to be available for distribution from the state liquor warehouse. However, the department may not prohibit liquor that is sold in gelatin cups that are shelf stable and liquid at room temperature and may not prohibit the distribution of beer and table wine by a distributor that are sold in gelatin cups that are shelf stable and liquid at room temperature.

(e) prescribing the minimum hours during which agency liquor stores must be open for the sale of alcoholic beverages;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor kept for sale;

(g) prescribing forms to be used for the purpose of this code or the rules and the terms and conditions for permits and licenses issued and granted under this code;

(h) prescribing the form of records of purchase of liquor and the reports to be made to the department and providing for inspection of the records;

(i) prescribing the manner of giving and serving notices required by this code or the rules;

(j) prescribing the fees payable for permits and licenses issued under this code for which fees are not prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules;

(k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary for the obtaining of alcoholic beverage licenses and the books and records to be kept and the returns to be made by the licensees;

(l) specifying and describing the place and the manner in which alcoholic beverages may be lawfully kept or stored;

(m) specifying and regulating the time when and the manner by which vendors and brewers may deliver alcoholic beverages under this code and the time when and the manner by which alcoholic beverages, under this code, may be lawfully conveyed or carried;

(n) governing the conduct, management, and equipment of any premises licensed to sell alcoholic beverages under this code;

(o) providing for the imposition and collection of taxes and making rules respecting returns, accounting, and payment of the taxes to the department.

(3) The department of justice may adopt rules to administer and implement its responsibilities under this title, including but not limited to rules providing for the inspection of licensed premises or premises where the sale of liquor has been proposed.

(4) Whenever this code provides that an act may be done if authorized by rules, the department, subject to the restrictions in subsection (1), may make rules respecting the act.

(5) The department shall use the negotiated rulemaking procedures contained in Title 2, chapter 5, for the purpose of adoption of rules related to the operation of agency liquor stores. However, the department may not be required to pay any expenses of the participants or of any persons engaged in the rulemaking process as provided for in 2-5-110.

History: **En. Sec. 9, Ch. 105, L. 1933; re-en. Sec. 2815.68, R.C.M. 1935; amd. Sec. 1, Ch. 43, L. 1965; amd. Sec. 1, Ch. 154, L. 1965; Sec. 4-113, R.C.M. 1947; amd. and redes. 4-1-303 by Sec. 6, Ch. 387, L. 1975; R.C.M. 1947, 4-1-303; amd. Sec. 7, Ch. 699, L. 1979; amd. Sec. 1, Ch. 47, L. 1983; amd. Sec. 7, Ch. 68, L. 1987; amd. Sec. 3, Ch. 414, L. 1993; amd. Sec. 17, Ch. 530, L. 1995; amd. Sec. 1, Ch. 565, L. 2023; amd. Sec. 22, Ch. 637, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 22, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Adoption and publication of administrative rules, 2-4-301.
Agency liquor store hours of operation, 16-2-104.
Liquor pricing, 16-2-201.
City and county licenses — fees, 16-4-503.

16-1-304. Prohibited acts. (1) An employee of the department involved in the operation of the state liquor warehouse, the issuance of licenses, or the collection of alcoholic beverages taxes or an employee of the department of justice directly involved with license applications or the investigation of matters concerning the manufacture, sale, and distribution of alcoholic beverages may not be directly or indirectly interested or engaged in any other business or undertaking dealing in alcoholic beverages, whether as owner, part owner, partner, member of a syndicate, shareholder, agent, or employee for the employee's own benefit or in a fiduciary capacity for some other person.

(2) An employee of the state, a state agent, or any person having any ownership interest in an agency liquor store may not solicit or receive, directly or indirectly, any commission, remuneration, gift, or other thing tangible or intangible of value from any person or corporation selling or offering liquor for sale to the state pursuant to this code.

(3) A person selling or offering for sale to or purchasing liquor from the state may not directly or indirectly offer to pay any commission, profit, or remuneration or make any gift to any employee of the state, any state agent, or any person having any ownership interest in an agency liquor store or to anyone on behalf of an employee.

(4) The prohibition contained in subsection (3) does not prohibit the state from receiving samples of liquor for the purpose of chemical testing, subject to the following limitations:

(a) Each manufacturer, distiller, compounder, rectifier, importer, or wholesale distributor or any other person, firm, or corporation proposing to sell any liquor to the state of Montana shall submit at the request of the department, without cost to the state prior to the original purchase, an analysis of each brand and may submit a representative sample not exceeding 25 fluid ounces of the merchandise to the state.

(b) When a brand of liquor has been accepted for testing by the state, the state shall forward the sample, unopened and in its entirety, to a qualified chemical laboratory for analysis.

(c) The state shall maintain written records of all samples received. The records must show the brand name, amount and from whom received, date received, the laboratory or chemist to whom forwarded, the state's action on the brand, and the person to whom delivered or other final disposition of the sample.

(5) Liquor may not be withdrawn from the regular warehouse inventory for any purpose other than sale to an agent of an agency liquor store, returning to the supplier, or for destroying damaged or defective merchandise. The state shall maintain a written record including the type, brand, container size, number of bottles or other units, signatures of witnesses, and method of destruction or other disposition of damaged or defective warehouse merchandise.

(6) The state may not require a company that manufactured, distilled, rectified, bottled, or processed and sold less than 200,000 proof gallons of liquor nationwide in the previous calendar year to maintain minimum amounts of liquor in the state warehouse while the distiller retains ownership of the product.

History: **En. Sec. 48, Ch. 105, L. 1933; re-en. Sec. 2815.107, R.C.M. 1935; amd. Sec. 1, Ch. 144, L. 1965; amd. Sec. 1, Ch. 72, L. 1971; Sec. 4-153, R.C.M. 1947; amd. and redes. 4-1-304 by Sec. 18, Ch. 387, L. 1975; amd. Sec. 1, Ch. 496, L. 1977; R.C.M. 1947, 4-1-304; amd. Sec. 8, Ch. 699, L. 1979; amd. Sec. 1, Ch. 766, L. 1991; amd. Sec. 4, Ch. 414, L. 1993; amd. Sec. 18, Ch. 530, L. 1995; amd. Sec. 4, Ch. 110, L. 2003; amd. Sec. 5, Ch. 33, L. 2023.**

Cross-References

Government employee standards of conduct, Title 2, ch. 2, parts 1 and 2.
Prohibited gifts to public servants, 45-7-104.

16-1-305. Title to property and moneys — administrative expenses. All property, whether real or personal, all moneys acquired, administered, possessed, or received by the department, and all profits earned in the administration of this code shall be the property of the state. All expenses, debts, and liabilities incurred by the department in connection with the administration of this code shall be paid by the department from the moneys received by the department under such administration.

History: En. Sec. 91, Ch. 105, L. 1933; re-en. Sec. 2815.151, R.C.M. 1935; Sec. 4-226, R.C.M. 1947; amd. and redes. 4-1-306 by Sec. 40, Ch. 387, L. 1975; R.C.M. 1947, 4-1-306.

16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of 17-2-124, be deposited to the credit of the state general fund.

History: En. Sec. 49, Ch. 106, L. 1933; amd. Sec. 17, Ch. 46, Ex. L. 1933; amd. Sec. 20B, Ch. 109, L. 1935; re-en. Sec. 2815.50, R.C.M. 1935; amd. Sec. 9, Ch. 14, L. 1941; amd. Sec. 1, Ch. 121, L. 1949; amd. Sec. 20, Ch. 249, L. 1967; amd. Sec. 3, Ch. 296, L. 1969; amd. Sec. 3, Ch. 421, L. 1971; Sec. 4-347, R.C.M. 1947; amd. and redes. 4-1-407 by Sec. 72, Ch. 387, L. 1975; amd. Sec. 1, Ch. 286, L. 1977; R.C.M. 1947, 4-1-407; amd. Sec. 54, Ch. 370, L. 1987; amd. Sec. 20, Ch. 455, L. 1993; amd. Sec. 23, Ch. 18, L. 1995; amd. Sec. 13, Ch. 422, L. 1997; amd. Sec. 18, Ch. 475, L. 2007; amd. Sec. 36, Ch. 2, L. 2009.

16-1-307. State-allowed industry trade shows — rulemaking. (1) The department may allow industry trade shows to allow alcoholic beverage manufacturers the ability to showcase alcoholic beverage products to industry trade show attendees. The department may partner with other state agencies to allow an industry trade show.

(2) An alcoholic beverage manufacturer may:

(a) using its own equipment, trucks, and employees or using a common carrier, deliver alcoholic beverages it produces from its premises to the industry trade show; and

(b) provide samples of its products to attendees of the industry trade show in quantities established by the department.

(3) The department may adopt rules to implement this section.

(4) The department may only recoup administrative costs and may not endorse vendors for a trade show as provided in this section.

History: En. Sec. 1, Ch. 41, L. 2023.

Part 4
Taxation of Alcoholic Beverages

Part Cross-References

Resort tax, Title 7, ch. 6, part 15.

16-1-401. Liquor excise tax. (1) Except as provided in subsection (3), the department shall collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at a rate that is the percent of the retail selling price determined in accordance with the following schedule based on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed the liquor and sold the specified number of proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section:

Nationwide production	Tax rate
Less than 20,000 proof gallons	3%
20,000 to 50,000 proof gallons	8%
50,001 to 200,000 proof gallons	13.8%
Over 200,000 proof gallons	16%

(2) The department shall retain the amount of the excise tax received in a separate account and shall, in accordance with the provisions of 17-2-124, deposit, to the credit of the general fund, the amount collected and received not later than the 10th day of each month.

(3) The following are exempt from the tax imposed by this section:

(a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and

(b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312.

History: En. Sec. 15, Ch. 84, L. 1937; amd. Sec. 1, Ch. 41, L. 1939; amd. Sec. 1, Ch. 180, L. 1957; Approved at referendum, Nov. 4, 1958; Sec. 4-417, R.C.M. 1947; amd. and redes. 4-1-403 by Sec. 94, Ch. 387, L. 1975; R.C.M. 1947, 4-1-403; amd. Sec. 1, Ch. 690, L. 1985; amd. Sec. 21, Ch. 455, L. 1993; amd. Sec. 24, Ch. 18, L. 1995; amd. Sec. 19, Ch. 475, L. 2007; amd. Sec. 1, Ch. 259, L. 2009; amd. Sec. 1, Ch. 277, L. 2011.

16-1-402. Payment of excise tax by carriers. (1) Every airline or railroad operating in the state of Montana and selling liquor purchased outside this state for consumption within this state shall pay to the department the excise taxes and state markup that would be applicable to the liquor if purchased from an agency liquor store.

(2) The amount of excise taxes and state markup payable must be determined by multiplying the following factors:

(a) the average liquor used per departure;

(b) the number of departures from Montana on which liquor is served;

(c) the ratio of Montana revenue passenger miles to system revenue passenger miles; and

(d) the applicable excise tax and state markup rates.

(3) From the product, the carrier shall subtract the amount of excise taxes and state markup on purchases of liquor made within this state.

History: En. 4-4-110 by Sec. 115, Ch. 387, L. 1975; R.C.M. 1947, 4-4-110; amd. Sec. 19, Ch. 530, L. 1995.

16-1-403. Excise tax accounting methods — report forms — penalty and interest. (1) Any carrier aggrieved by the application of the method provided in 16-1-402 may petition the department for use of an alternate method. If the department finds that the application of the method will be unjust to the carrier, it may allow the use of the method petitioned for by the carrier or may use another method that fairly reflects the liquor purchased outside this state and served for consumption within this state.

(2) (a) The department shall prescribe report forms that must be used by the carriers in reporting their sales and computing their liability for excise taxes and markup. Report forms must be filed and payment of excise taxes and state markup must be made on a quarterly basis. The filing of report forms and payment of excise taxes and state markup must be made not later than the last day of the month immediately following the close of each quarterly period.

(b) A person who fails to file a required report form or to pay the excise taxes or state markup due under this part is subject to the penalty and interest provisions of 15-1-216.

History: En. 4-4-111 by Sec. 116, Ch. 387, L. 1975; R.C.M. 1947, 4-4-111; amd. Sec. 3, Ch. 5, L. 1979; amd. Sec. 47, Ch. 427, L. 1999.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

16-1-404. License tax on liquor — amount — distribution of proceeds. (1) Except as provided in subsection (4), the department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The license tax must be charged and collected on all liquor produced in or brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup of 40.5% for all liquor other than sacramental wine, for which the markup must be 20%, and fortified wine containing more than 16% but not more than 24% alcohol by volume, for which the markup must be 51%. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax.

The department shall retain in a separate account the amount of the license tax received. The department, in accordance with the provisions of 17-2-124, shall allocate the revenue as follows:

(a) Thirty-four and one-half percent is allocated to the state general fund.

(b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(3) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206.

(4) The following are exempt from the tax and markup imposed by this section:

(a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and

(b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312.

History: **En. Sec. 1, Ch. 217, L. 1957; amd. Sec. 1, Ch. 153, L. 1969; amd. Sec. 17, Ch. 302, L. 1974; Sec. 4-240, R.C.M. 1947; amd. and redes. 4-1-401 by Sec. 44, Ch. 387, L. 1975; amd. Sec. 8, Ch. 414, L. 1977; R.C.M. 1947, 4-1-401; amd. Sec. 6, Ch. 711, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 690, L. 1985; amd. Sec. 13, Ch. 703, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 22, Ch. 455, L. 1993; amd. Sec. 25, Ch. 18, L. 1995; amd. Sec. 51, Ch. 546, L. 1995; amd. Sec. 14, Ch. 422, L. 1997; amd. Sec. 9, Ch. 389, L. 1999; amd. Sec. 1, Ch. 470, L. 2001; amd. Sec. 104, Ch. 574, L. 2001; amd. Sec. 4, Ch. 591, L. 2005; amd. Sec. 20, Ch. 475, L. 2007; amd. Sec. 2, Ch. 277, L. 2011; amd. Sec. 1, Ch. 362, L. 2015.**

Cross-References

Utilization of tax proceeds used for alcoholism programs, 53-24-108.

16-1-405. Repealed. Sec. 123, Ch. 2, L. 2009.

History: **En. Sec. 2, Ch. 217, L. 1957; Sec. 4-241, R.C.M. 1947; redes. 4-1-402 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-1-402; amd. Sec. 8, Ch. 68, L. 1987.**

16-1-406. Taxes on beer. (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana by a distributor or by a licensed brewer directly to retailers, special permittees, or the public. The tax is based on the total number of barrels of beer produced by a brewer in a year. A brewer who produces fewer than 10,000 barrels of beer a year is taxed on the following increments of production:

(i) up to 5,000 barrels, $1.30;

(ii) 5,001 barrels to 10,000 barrels, $2.30.

(b) The tax on beer sold for a brewer who produces over 10,000 barrels is $4.30.

(2) The tax imposed pursuant to subsection (1) on a distributor and an electronic beer tax return is due at the end of each quarter from the distributor on beer sold by the distributor during that quarter. The tax imposed pursuant to subsection (1) on a licensed brewer and an electronic beer tax return is due at the end of each quarter from the brewer for beer sold during the previous quarter. The department shall compute the tax due on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons.

(3) Each quarter, in accordance with the provisions of 17-2-124, of the tax collected pursuant to subsection (1), an amount equal to:

(a) 23.26% must be deposited in the state treasury to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and

(b) the balance must be deposited in the state general fund.

History: **En. Sec. 20, Ch. 106, L. 1933; amd. Sec. 8, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.29, R.C.M. 1935; amd. Sec. 2, Ch. 135, L. 1959; amd. Sec. 2, Ch. 296, L. 1969; amd. Sec. 2, Ch. 421, L. 1971; amd. Sec. 18, Ch. 302, L. 1974; Sec. 4-324, R.C.M. 1947; redes. 4-1-404 by Sec. 120, Ch. 387, L. 1975; amd. Sec. 9, Ch. 414, L. 1977; R.C.M. 1947, 4-1-404(part); amd. Sec. 1, Ch. 172, L. 1987; amd. Sec. 15, Ch. 422, L. 1997; amd. Sec. 1, Ch. 405, L. 2001; amd. Sec. 2, Ch. 470, L. 2001; amd. Secs. 105, 255(7), Ch. 574, L. 2001; amd. Sec. 21, Ch. 475, L. 2007; amd. Sec. 1, Ch. 271, L. 2017; amd. Sec. 1, Ch. 68, L. 2023; amd. Sec. 6, Ch. 76, L. 2023; amd. Sec. 23, Ch. 637, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 23, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-1-407. Repealed. Sec. 3, Ch. 172, L. 1987.

History: En. 4-1-405 by Sec. 113, Ch. 387, L. 1975; R.C.M. 1947, 4-1-405.

16-1-408. Repealed. Sec. 66, Ch. 422, L. 1997.

History: En. Sec. 20, Ch. 106, L. 1933; amd. Sec. 8, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.29, R.C.M. 1935; amd. Sec. 2, Ch. 135, L. 1959; amd. Sec. 2, Ch. 296, L. 1969; amd. Sec. 2, Ch. 421, L. 1971; amd. Sec. 18, Ch. 302, L. 1974; Sec. 4-324, R.C.M. 1947; redes. 4-1-404 by Sec. 120, Ch. 387, L. 1975; amd. Sec. 9, Ch. 414, L. 1977; R.C.M. 1947, 4-1-404(part); amd. Sec. 1, Ch. 721, L. 1985; amd. Sec. 2, Ch. 172, L. 1987; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 23, Ch. 455, L. 1993; amd. Sec. 26, Ch. 18, L. 1995; amd. Sec. 52, Ch. 546, L. 1995.

16-1-409. Repealed. Sec. 10, Ch. 76, L. 2023.

History: (1) thru (6)En. Sec. 3, Ch. 220, L. 1939; Sec. 4-325, R.C.M. 1947; amd. and redes. 4-3-217 by Sec. 60, Ch. 387, L. 1975; Sec. 4-3-217, R.C.M. 1947; (7)En. Sec. 16, Ch. 106, L. 1933; re-en. Sec. 2815.25, R.C.M. 1935; amd. Sec. 2, Ch. 220, L. 1939; Sec. 4-320, R.C.M. 1947; amd. and redes. 4-6-403 by Sec. 58, Ch. 387, L. 1975; Sec. 4-6-403, R.C.M. 1947; R.C.M. 1947, 4-3-217, 4-6-403; amd. Sec. 40, Ch. 439, L. 1981; amd. Sec. 19, Ch. 83, L. 1989; amd. Sec. 16, Ch. 422, L. 1997; amd. Sec. 48, Ch. 427, L. 1999.

16-1-410. Repealed. Sec. 66, Ch. 422, L. 1997.

History: En. 4-347.1 by Sec. 4, Ch. 421, L. 1971; Sec. 4-347.1, R.C.M. 1947; amd. and redes. 4-1-408 by Sec. 73, Ch. 387, L. 1975; R.C.M. 1947, 4-1-408; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 14, Ch. 703, L. 1985; amd. Sec. 20, Ch. 83, L. 1989; amd. Sec. 23, Ch. 15, Sp. L. July 1992; amd. Sec. 1, Ch. 60, L. 1993; amd. Sec. 24, Ch. 455, L. 1993; amd. Sec. 27, Ch. 18, L. 1995.

16-1-411. Tax on wine and hard cider — penalty and interest. (1) (a) A tax of 27 cents a liter is imposed on sacramental wine and table wine, except hard cider, sold by:

(i) a distributor to licensed retailers, agency liquor stores, and special permit holders;

(ii) a licensed winery directly to licensed retailers, special permit holders, or the public; and

(iii) a registered winery directly to the public.

(b) A tax of 3.7 cents a liter is imposed on hard cider sold by:

(i) a distributor to licensed retailers, agency liquor stores, and special permit holders;

(ii) a licensed winery directly to retailers, special permit holders, or the public; and

(iii) a registered winery directly to the public.

(2) The tax imposed in subsection (1) must be paid as follows:

(a) A winery registered pursuant to 16-4-107 that sells more than 1,000 liters of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter during the following period that begins October 1 and ends September 30.

(b) A winery registered pursuant to 16-4-107 that sells 1,000 liters or less of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on or before October 15 of the following period that begins October 1 and ends September 30.

(c) A winery licensed pursuant to 16-4-107 that sells sacramental wine, table wine, or hard cider to consumers or licensed retailers in the state or that sells table wine to agency liquor stores for sale to consumers in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th of each quarter for sales in the previous quarter.

(d) A distributor that sells sacramental wine, table wine, or hard cider in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter for sales in the previous quarter.

(3) The tax paid by a winery or by a distributor in accordance with subsection (2) must, in accordance with the provisions of 17-2-124, be distributed as follows:

(a) 69% to the state general fund; and

(b) 31% to the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(4) The tax computed and paid in accordance with this section is the only tax imposed by the state or any of its subdivisions, including cities and towns.

(5) For the purposes of this section, "table wine" has the meaning assigned in 16-1-106 but does not include hard cider.

History: En. Sec. 9, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 5, Ch. 699, L. 1979; amd. Sec. 1, Ch. 219, L. 1981; amd. Sec. 1, Ch. 241, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 15, Ch. 703, L. 1985; amd. Sec. 2, Ch. 721, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 24, Ch. 15, Sp. L. July 1992; amd. Sec. 2, Ch. 60, L. 1993; amd. Sec. 25, Ch. 455, L. 1993; amd. Sec. 28, Ch. 18, L. 1995; amd. Sec. 53, Ch. 546, L. 1995; amd. Sec. 2, Ch. 399, L. 1997; amd. Sec. 49, Ch. 427, L. 1999; amd. Sec. 3, Ch. 470, L. 2001; amd. Sec. 106, Ch. 574, L. 2001; amd. Sec. 22, Ch. 475, L. 2007; amd. Sec. 2, Ch. 115, L. 2013; amd. Sec. 4, Ch. 184, L. 2013; amd. Sec. 1, Ch. 29, L. 2019; amd. Sec. 2, Ch. 68, L. 2023; amd. Sec. 7, Ch. 76, L. 2023; amd. Sec. 1, Ch. 622, L. 2023; amd. Sec. 24, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 24, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

Hard cider defined, 16-1-106.

Additional tax on table wine sold to agency liquor store, 16-2-301.

16-1-412. Deficiency assessment — penalty and interest — statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the licensee a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) The amount of tax due under any return may be determined by the department within 3 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

History: En. Sec. 1, Ch. 76, L. 2023.

16-1-413. Procedure to compute tax in absence of statement — estimation of tax — failure to pay — penalty and interest. (1) If the licensee fails to file any return required by this part within the time required, the department may, at any time, audit the licensee or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the licensee for the taxes, penalties, and interest due the state.

(2) The department shall impose a penalty and interest as provided in 15-1-216. The department shall mail to the licensee a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206.

History: En. Sec. 2, Ch. 76, L. 2023.

16-1-414. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department shall impose a penalty and interest as provided in 15-1-216 and the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the licensee from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the licensee has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the licensee if a claim is required before funds are available for offset.

(5) An action may not be maintained to enjoin the collection of the tax or any part of the tax.

History: En. Sec. 3, Ch. 76, L. 2023.

16-1-415. Refunds — interest — limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under this part must be filed within 3 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed $1.

History: En. Sec. 4, Ch. 76, L. 2023.

16-1-416. Department rulemaking. The department shall prescribe rules necessary to carry out the purposes of imposing and collecting the tax on the sale of alcoholic beverages.

History: En. Sec. 5, Ch. 76, L. 2023.

16-1-417 through 16-1-420 reserved.

16-1-421. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 20, Ch. 15, Sp. L. July 1992; amd. Sec. 26, Ch. 455, L. 1993.

16-1-422. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 21, Ch. 15, Sp. L. July 1992; amd. Sec. 27, Ch. 455, L. 1993.

16-1-423. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992.

History: En. Sec. 22, Ch. 15, Sp. L. July 1992; amd. Sec. 28, Ch. 455, L. 1993.

16-1-424. Distillery — reporting — tax payment — penalties. (1) Except as provided in subsection (3), a distillery licensed to do business in this state under 16-4-311 shall, on or before the 15th day of each month, electronically on a form prescribed by the department, make an exact return to the department reporting the total amount of liquor samples provided with or without charge at the distillery in the previous month. The department may at any time make an examination of the distillery's books and of the premises and may otherwise check the accuracy of the return.

(2) The taxes imposed pursuant to 16-1-401 and 16-1-404 on a distillery licensed under 16-4-311 are due on or before the 15th day of each month from the distiller for liquor sold during the previous month. The department shall adopt rules and provide forms for the proper allocation of taxes.

(3) A distillery for which the tax is less than $10 a month from the sale of samples is not required to file a return or pay the tax for that month under this section.

History: En. Sec. 7, Ch. 591, L. 2005; amd. Sec. 8, Ch. 76, L. 2023.

CHAPTER 2
LIQUOR STORES

Part 1 — Operation of Stores

16-2-101. Establishment and closure of agency liquor stores — agency franchise agreement — kinds and prices of liquor.
16-2-102. Repealed.
16-2-103. Duplicate invoices of sales required.
16-2-104. Hours.
16-2-105. Place and time of selling liquor.
16-2-106. Sales by agent.
16-2-107. No open alcoholic beverage container or alcoholic beverage consumption on premises of agency store.
16-2-108. Disposition of money received.
16-2-109. Number and location of agency liquor stores.
16-2-110. State lien on liquor in agency liquor stores.
16-2-111. Seven-day credit limitation.

Part 2 — Price of Liquor
16-2-201. Reduction for quantity sales of liquor.
16-2-202. Repealed.
16-2-203. Sales to licensees.
16-2-204 through 16-2-210 reserved.
16-2-211. State liquor markup reduction — Montana-produced ingredients.
Part 3 — Sale of Table Wine
16-2-301. Retail selling price on table wine.
16-2-302. Repealed.
16-2-303. Repealed.
Part 4 — Conversion of Liquor Stores (Repealed)

Part 1
Operation of Stores

16-2-101. Establishment and closure of agency liquor stores — agency franchise agreement — kinds and prices of liquor. (1) The department shall enter into agency franchise agreements to operate agency liquor stores as the department finds feasible for the wholesale and retail sale of liquor.

(2) (a) The department may from time to time fix the posted prices at which the various classes, varieties, and brands of liquor may be sold, and the posted prices must be the same at all agency liquor stores.

(b) (i) The department shall supply from the state liquor warehouse to agency liquor stores the various classes, varieties, and brands of liquor for resale at the state posted price to persons who hold liquor licenses and to all other persons at the retail price established by the agent.

(ii) (A) According to the ordering and delivery schedule set by the department, an agency liquor store may place a liquor order with the department at its state liquor warehouse in the manner to be established by the department.

(B) The agency liquor store's purchase price is the department's posted price less the agency liquor store's commission rate. The commission rates constitute the only compensation the department provides to agency liquor stores and reflect that agency liquor stores sell at retail and wholesale and must provide the discount in 16-2-201.

(C) All liquor purchased from the state liquor warehouse by an agency liquor store must be paid for within 60 days of the date on which the department invoices the liquor to the agency liquor store.

(c) An agency liquor store may sell table wine at retail for off-premises consumption.

(3) Agency liquor stores may not be located in or adjacent to grocery stores in communities with populations over 3,000.

(4) (a) Agency liquor stores must receive an annual commission rate based on the total posted price of liquor purchased in the previous calendar year, as follows:

(i) 16% commission for stores that purchased not more than $250,000;

(ii) 15.5% commission for stores that purchased more than $250,000 but not more than $500,000;

(iii) 15% commission for stores that purchased more than $500,000 but not more than $720,000;

(iv) 14.5% commission for stores that purchased more than $720,000 but not more than $950,000;

(v) 14% commission for stores that purchased more than $950,000 but not more than $1.525 million;

(vi) 13.5% commission for stores that purchased more than $1.525 million but not more than $1.85 million;

(vii) 13% commission for stores that purchased more than $1.85 million but not more than $2.25 million;

(viii) 12.75% commission for stores that purchased more than $2.25 million but not more than $3.25 million;

(ix) 12.5% commission for stores that purchased more than $3.25 million but not more than $7 million; or

(x) 12.15% commission for stores that purchased more than $7 million.

(b) For commissions determined under subsection (4)(a), the department shall by February 1 of each year:

(i) calculate purchases based on all liquor invoiced to the agency liquor store during the previous calendar year;

(ii) notify agency liquor stores of their commission rate to be applied for the period beginning February 1 and ending January 31; and

(iii) adjust the dollar values for purchase amounts under subsection (4)(a) based on the consumer price index for the prior calendar year and notify all agency liquor stores of the adjustment.

(c) New stores must receive a commission established by competitive bidding, which is guaranteed for 3 calendar years, after which time the agency liquor store's commission is subject to subsection (4)(a).

(5) An agency franchise agreement must:

(a) be effective for a 10-year period, renewable for additional 10-year periods, if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and

(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) provide that upon termination by the department for cause or upon mutual termination, the agent is liable for any outstanding liquor purchase invoices. If payment is not made within the appropriate time, the department may immediately repossess all liquor inventory, wherever located.

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6) The liability insurance requirement may be reviewed every 3 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of liability insurance coverage may not be less than the minimum requirements of the department of administration.

(7) (a) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement because the agent:

(i) charges retail prices that are less than the department's posted price for liquor, sells liquor to persons who hold liquor licenses at less than the posted price, or sells liquor at case discounts greater than the discount provided for in 16-2-201 to persons who hold liquor licenses;

(ii) fails to maintain sufficient liability insurance;

(iii) has not maintained a quantity and variety of product available for sale commensurate with demand, delivery cycle, repayment schedule, mixed case shipments from the department, and the ability to purchase special orders;

(iv) at an agency liquor store located 35 miles or more from the nearest agency liquor store, has operated the agency liquor store in a manner that makes the premises unsanitary or inaccessible for the purpose of making purchases of liquor; or

(v) fails to comply with the express terms of the agency franchise agreement.

(b) The department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the termination and request a hearing within 30 days of the date of notice. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

(c) In the case of failure to make timely payments to the department for liquor purchased, the department may terminate the agency franchise agreement and immediately repossess any liquor purchased and in the possession of the agent. If an agency franchise agreement is terminated, the agent may contest the termination and request a hearing within 30 days of the department's repossession of the liquor. The agency liquor store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

(8) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

(9) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

(10) A person or entity may not hold an ownership interest in more than one agency liquor store.

(11) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%.

History: **En. Sec. 10, Ch. 105, L. 1933; re-en. Sec. 2815.69, R.C.M. 1935; amd. Sec. 4, Ch. 30, L. 1937; amd. Sec. 1, Ch. 237, L. 1947; amd. Sec. 1, Ch. 162, L. 1949; amd. Sec. 1, Ch. 62, L. 1971; Sec. 4-114, R.C.M. 1947; amd. and redes. 4-2-101 by Sec. 7, Ch. 387, L. 1975; R.C.M. 1947, 4-2-101(part); amd. Sec. 1, Ch. 157, L. 1979; amd. Sec. 1, Ch. 2, Sp. L. March 1986; amd. Sec. 9, Ch. 68, L. 1987; amd. Sec. 1, Ch. 648, L. 1987; amd. Sec. 2, Ch. 228, L. 1993; amd. Sec. 20, Ch. 530, L. 1995; amd. Sec. 89, Ch. 42, L. 1997; amd. Sec. 1, Ch. 508, L. 2001; amd. Sec. 15, Ch. 44, L. 2007; amd. Sec. 1, Ch. 391, L. 2009; amd. Sec. 2, Ch. 362, L. 2015; amd. Sec. 2, Ch. 61, L. 2023.**

Cross-References

Contested case hearings — Montana Administrative Procedure Act, Title 2, ch. 4, part 6.

Price of liquor, 16-2-201, 16-2-203.

16-2-102. Repealed. Sec. 4, Ch. 47, L. 1983.

History: **En. Sec. 14, Ch. 105, L. 1933; re-en. Sec. 2815.73, R.C.M. 1935; Sec. 4-119, R.C.M. 1947; redes. 4-2-102 by Sec. 120, Ch. 387, L. 1975; amd. Sec. 2, Ch. 496, L. 1977; R.C.M. 1947, 4-2-102.**

16-2-103. Duplicate invoices of sales required. (1) An agency liquor store shall, on each sale of liquor to any licensee, issue a duplicate invoice of the liquor purchased, as provided by the department, a copy of which must be delivered to the licensee and one copy retained at the store.

(2) The invoice must show the date of purchase, the name of the employee making the sale, the quantity of each kind of liquor purchased, the price paid for the liquor, the name of the licensee, and the number of the license, with any other information that may be required by the department.

(3) The licensee shall keep and retain the duplicate invoice of all purchases made from an agency liquor store, which must at all times be subject to inspection by the duly authorized officers, agents, and employees of the department.

History: **En. Sec. 16, Ch. 84, L. 1937; Sec. 4-418, R.C.M. 1947; amd. and redes. 4-2-205 by Sec. 95, Ch. 387, L. 1975; R.C.M. 1947, 4-2-205; amd. Sec. 10, Ch. 68, L. 1987; amd. Sec. 90, Ch. 42, L. 1997; amd. Sec. 3, Ch. 61, L. 2023.**

16-2-104. Hours. Agency liquor stores may remain open during the period between 8 a.m. and 2 a.m. Subject to local ordinances or department requirements relating to operating hours, a store may be open or closed at the store's discretion.

History: **(1)En. Sec. 10, Ch. 105, L. 1933; re-en. Sec. 2815.69, R.C.M. 1935; amd. Sec. 4, Ch. 30, L. 1937; amd. Sec. 1, Ch. 237, L. 1947; amd. Sec. 1, Ch. 162, L. 1949; amd. Sec. 1, Ch. 62, L. 1971; Sec. 4-114, R.C.M. 1947; amd. and redes. 4-2-101 by Sec. 7, Ch. 387, L. 1975; Sec. 4-2-101, R.C.M. 1947; (2)En. Sec. 16, Ch. 105, L. 1933; re-en. Sec. 2815.75, R.C.M. 1935; amd. Sec. 5, Ch. 30, L. 1937; amd. Sec. 2, Ch. 62, L. 1971; Sec. 4-121, R.C.M. 1947; amd. and redes. 4-2-104 by Sec. 11, Ch. 387, L. 1975; Sec. 4-2-104, R.C.M. 1947; R.C.M. 1947, 4-2-101(part), 4-2-104; amd. Sec. 11, Ch. 68, L. 1987; amd. Sec. 21, Ch. 530, L. 1995; amd. Sec. 4, Ch. 61, L. 2023; amd. Sec. 1, Ch. 635, L. 2023.**

Cross-References

Legal holidays in Montana, 1-1-216.

16-2-105. Place and time of selling liquor. A liquor store agent and a person acting as an employee of or in any capacity for any agent may not sell liquor in any other place or at any other time or otherwise than as authorized by this code and the rules implementing this code.

History: En. Sec. 47, Ch. 105, L. 1933; re-en. Sec. 2815.106, R.C.M. 1935; Sec. 4-152, R.C.M. 1947; amd. and redes. 4-2-105 by Sec. 17, Ch. 387, L. 1975; R.C.M. 1947, 4-2-105; amd. Sec. 22, Ch. 530, L. 1995.

16-2-106. Sales by agent. A liquor store agent may sell to any person any liquor and table wine that the person is entitled to purchase in conformity with the provisions of this code and the rules implementing this code. An agent may, under the terms and conditions that the agent establishes, deliver liquor and table wine purchased from the agent's agency liquor store. An agent may sell liquor through curbside pickup in original packaging.

History: En. Sec. 12, Ch. 105, L. 1933; re-en. Sec. 2815.71, R.C.M. 1935; amd. Sec. 4, Ch. 154, L. 1965; amd. Sec. 1, Ch. 162, L. 1969; Sec. 4-116, R.C.M. 1947; amd. and redes. 4-2-106 by Sec. 8, Ch. 387, L. 1975; R.C.M. 1947, 4-2-106; amd. Sec. 12, Ch. 68, L. 1987; amd. Sec. 23, Ch. 530, L. 1995; amd. Sec. 3, Ch. 194, L. 2021.

16-2-107. No open alcoholic beverage container or alcoholic beverage consumption on premises of agency store. An agent and the agent's employees in an agency store may not allow any alcoholic beverage container to be opened on the premises of an agency liquor store or allow any alcoholic beverage to be consumed on the premises of an agency liquor store, nor may any person open an alcoholic beverage container or consume any alcoholic beverage in an agency liquor store.

History: En. Sec. 15, Ch. 105, L. 1933; re-en. Sec. 2815.74, R.C.M. 1935; Sec. 4-120, R.C.M. 1947; amd. and redes. 4-2-107 by Sec. 10, Ch. 387, L. 1975; R.C.M. 1947, 4-2-107; amd. Sec. 2, Ch. 47, L. 1983; amd. Sec. 13, Ch. 68, L. 1987; amd. Sec. 24, Ch. 530, L. 1995.

16-2-108. Disposition of money received. (1) The department may purchase liquor from money deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses associated with the sale of liquor, subject to the limits imposed by legislative appropriation. An obligation created or incurred by the department may not be a debt or claim against the state of Montana but must be payable by the department solely from funds derived from the operation of state liquor sales. The department shall pay into the state treasury to the credit of the enterprise fund the receipts from the sale of liquor and all taxes collected by it. Taxes and the net proceeds from the operation of state liquor sales must be transferred to the general fund.

(2) All liquor license fees and permit fees collected by the department must be deposited into the department's liquor enterprise fund.

(3) The department shall pay from its account in the liquor enterprise fund:

(a) expenses associated with administering liquor licensing and fee collection; and

(b) expenses associated with investigations pursuant to its agreement with the department of justice.

(4) The net proceeds of the liquor enterprise fund must be transferred to the general fund.

History: En. Sec. 94, Ch. 105, L. 1933; re-en. Sec. 2815.154, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1939; amd. Sec. 211, Ch. 147, L. 1963; Sec. 4-229, R.C.M. 1947; amd. and redes. 4-1-406 by Sec. 41, Ch. 387, L. 1975; amd. Sec. 1, Ch. 398, L. 1977; R.C.M. 1947, 4-1-406; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 14, Ch. 68, L. 1987; amd. Sec. 1, Ch. 225, L. 1989; amd. Sec. 25, Ch. 530, L. 1995; amd. Sec. 2, Ch. 448, L. 2001.

16-2-109. Number and location of agency liquor stores. (1) (a) In a community with a population of 12,000 or less, there may be one agency liquor store. In communities with populations greater than 12,000, there may be one agency liquor store for the first 12,000 inhabitants and one additional agency liquor store within increments of population of 40,000 inhabitants above 12,000 inhabitants. In determining population, the department shall use the same methods used for determining increases in the retail license quota system as provided in 16-4-201.

(b) In communities that are eligible for more than one agency liquor store, an agency liquor store established after April 25, 1995, may not be located within a 1-mile radius of any other agency liquor store in the community.

(2) An agency liquor store established after April 25, 1995, may not be located in a community that is closer than 35 miles to another community in which an agency liquor store is presently located, except in the circumstance when the most recent population estimates show a 25% growth in population or a growth of 1,000 inhabitants within a 2-year period, whichever

is greater, and when this population increase is reasonably expected to continue for at least 5 years.

History: En. Sec. 9, Ch. 530, L. 1995; amd. Sec. 22, Ch. 7, L. 2001.

Cross-References

Community defined, 16-1-106.

16-2-110. State lien on liquor in agency liquor stores. The state has a first lien with an absolute first priority to secure any outstanding amounts due the state for liquor purchased on any inventory, including any after-acquired inventory in the possession of an agent or on the premises of an agency liquor store, to secure payment for the existing inventory. The state has the right to physically recover any inventory from an agency liquor store and impose fees to recoup the cost of the recovery for any failure to timely make payments.

History: En. Sec. 10, Ch. 530, L. 1995; amd. Sec. 3, Ch. 635, L. 2023.

Cross-References

Liens — general provisions, Title 71, ch. 3, part 1.

16-2-111. Seven-day credit limitation. (1) A sale or delivery of liquor or table wine may not be made to a retail licensee from an agency liquor store unless cash is paid within 7 days after the delivery of the liquor or table wine.

(2) An agency liquor store may not extend more than 7 days' credit for the sold or delivered liquor or table wine to a retail licensee, and a retail licensee may not accept or receive delivery of the liquor or table wine without agreement to pay in cash for the liquor or table wine within 7 days after the delivery.

(3) A correctly dated check that is honored on presentation is considered cash for the purposes of this section.

(4) Any extension or acceptance of credit in violation of this section is considered rendering or receiving of financial assistance. The licenses of any retail licensees that violate this section must be suspended or revoked, and the franchise agreement of any agency liquor store involved in a violation of this section must be terminated, as determined by the department in its discretion.

History: En. Sec. 2, Ch. 635, L. 2023.

Part 2
Price of Liquor

16-2-201. Reduction for quantity sales of liquor. A reduction of 8% of the posted price of liquor sold at an agency liquor store must be made for sales of liquor to a licensee purchasing liquor in unbroken case lots. This reduction is limited to liquor designated by the department as regular product as defined by administrative rule. No other reduction below the posted price may be made for sales of liquor.

History: En. Sec. 1, Ch. 185, L. 1943; amd. Sec. 1, Ch. 334, L. 1975; Sec. 4-117, R.C.M. 1947; amd. and redes. 4-2-201 by Sec. 9, Ch. 387, L. 1975; R.C.M. 1947, 4-2-201; amd. Sec. 26, Ch. 530, L. 1995; amd. Sec. 1, Ch. 12, L. 2013; amd. Sec. 2, Ch. 622, L. 2023.

16-2-202. Repealed. Sec. 3, Ch. 690, L. 1985.

History: En. 4-114.1 by Sec. 1, Ch. 359, L. 1974; Sec. 4-114.1, R.C.M. 1947; redes. 4-2-202 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-2-202.

16-2-203. Sales to licensees. Agency liquor stores may sell to licensees licensed under this code all kinds of liquor at the posted price. All sales must be paid for at the time of sale or made as provided in 16-2-111.

History: En. Sec. 14, Ch. 84, L. 1937; Sec. 4-416, R.C.M. 1947; amd. and redes. 4-2-204 by Sec. 93, Ch. 387, L. 1975; amd. Sec. 3, Ch. 496, L. 1977; R.C.M. 1947, 4-2-204(part); amd. Sec. 10, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 15, Ch. 68, L. 1987; amd. Sec. 11, Ch. 19, L. 2011; amd. Sec. 1, Ch. 28, L. 2011; amd. Sec. 5, Ch. 61, L. 2023; amd. Sec. 6, Ch. 635, L. 2023.

16-2-204 through 16-2-210 reserved.

16-2-211. State liquor markup reduction — Montana-produced ingredients. (1) Based upon the percentage of Montana-produced ingredients that are used in producing a liquor, the department shall reduce the liquor markup charged by the department in determining the wholesale price of the liquor. To qualify for a reduced markup, the liquor must

have been manufactured, distilled, rectified, bottled, or processed by a distillery that produces 25,000 proof gallons or less of liquor nationwide annually. The reduction in the markup must be determined as follows:

Percent of Montana-Produced Ingredients	Reduction in Markup
50% to 64%	50%
65% to 74%	75%
75% to 100%	100%

(2) For the purposes of this section, the liquor markup is the standard markup added to the department's base case price used in determining the wholesale price of liquor for products other than fortified wine or sacramental wine and does not include the reduced markup that results from the department's reduced prices for products designated for closeout or inventory reduction. The reduced markup must be applied to the standard liquor markup minus associated agency liquor store commissions and discount rate costs pursuant to 16-2-101 and costs of operating the central liquor warehouse and must be determined by the department on a yearly basis.

(3) (a) The percent of Montana-produced ingredients is determined as a percentage of the total applicable dry and wet weights of all the fermentable and flavor ingredients used in the production of the liquor as provided by rule adopted by the department.

(b) For the purposes of this section, a Montana-produced ingredient is an agricultural product, either processed or unprocessed, that in its unprocessed state was grown in Montana or, if it is a processed ingredient, that was processed in Montana from unprocessed agricultural products that were grown in Montana. Water is not an ingredient.

History: **En. Sec. 1, Ch. 345, L. 2011.**

Part 3
Sale of Table Wine

Part Cross-References

Connoisseur's licenses, Title 16, ch. 4, part 9.

16-2-301. Retail selling price on table wine. The retail selling price at which table wine is sold at an agency liquor store is as determined by the agent.

History: **En. Sec. 9, Ch. 699, L. 1979; amd. Sec. 1, Ch. 629, L. 1987; amd. Sec. 27, Ch. 530, L. 1995; amd. Sec. 3, Ch. 399, L. 1997; amd. Sec. 9, Ch. 76, L. 2023.**

Cross-References

Hard cider defined, 16-1-106.

16-2-302. Repealed. Sec. 41, Ch. 530, L. 1995.

History: **En. Sec. 10, Ch. 699, L. 1979; amd. Sec. 16, Ch. 68, L. 1987; amd. Sec. 2, Ch. 629, L. 1987.**

16-2-303. Repealed. Sec. 41, Ch. 530, L. 1995.

History: **En. Sec. 11, Ch. 699, L. 1979.**

Part 4
Conversion of Liquor Stores (Repealed)

16-2-401. Repealed. Sec. 315, Ch. 42, L. 1997.

History: **En. Sec. 1, Ch. 530, L. 1995.**

16-2-402. Repealed. Sec. 315, Ch. 42, L. 1997.

History: **En. Sec. 2, Ch. 530, L. 1995.**

16-2-403. Repealed. Sec. 315, Ch. 42, L. 1997.

History: **En. Sec. 3, Ch. 530, L. 1995.**

16-2-404. Repealed. Sec. 315, Ch. 42, L. 1997.

History: **En. Sec. 4, Ch. 530, L. 1995.**

16-2-405. Repealed. Sec. 315, Ch. 42, L. 1997.

History: **En. Sec. 5, Ch. 530, L. 1995.**

16-2-406. Repealed. Sec. 315, Ch. 42, L. 1997.
History: En. Sec. 6, Ch. 530, L. 1995.

16-2-407. Repealed. Secs. 315(2), 316(2), Ch. 42, L. 1997.
History: En. Sec. 7, Ch. 530, L. 1995.

16-2-408. Repealed. Sec. 315, Ch. 42, L. 1997.
History: En. Sec. 8, Ch. 530, L. 1995.

CHAPTER 3
CONTROL OF LIQUOR, BEER, AND WINE

Part 1 — Official Controls

16-3-101. Alcoholic beverage transactions — only in accordance with code.
16-3-102. Repealed.
16-3-103. Unlawful sales solicitation or advertising — exceptions.
16-3-104. Common carriers to purchase beer from brewer, beer importer, or distributor.
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16-3-106. Conveyance of alcoholic beverages — opening alcoholic beverages during transit forbidden.
16-3-107. Resident representatives required.

Part 2 — Regulation of Brewers, Beer Importers, and Beer Wholesalers

16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than prescribed unlawful — personal brewing.
16-3-202. Beer sale by department prohibited.
16-3-203 through 16-3-210 reserved.
16-3-211. Monthly report of brewer, beer importer, or retailer — inspection of books and premises.
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16-3-213. Brewers or beer importers not to retail beer — small brewery exceptions — brewer collaboration.
16-3-214. Beer sales by brewers — sample room exception.
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16-3-217. Repealed.
16-3-218. Repealed.
16-3-219. Repealed.
16-3-220. Repealed.
16-3-221. Repealed.
16-3-222. Repealed.
16-3-223. Repealed.
16-3-224. Repealed.
16-3-225. Repealed.
16-3-226. Repealed.
16-3-227 through 16-3-229 reserved.
16-3-230. Repealed.
16-3-231. Repealed.
16-3-232. Repealed.
16-3-233. Repealed.
16-3-234. Repealed.
16-3-235. Carriers' reports of beer transported.
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16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer importers, and distributors unlawful — exceptions.
16-3-242. Financial interest in retailers prohibited.
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16-3-301. Unlawful purchases, transfers, sales, or deliveries — presumption of legal age.
16-3-302. Sale by retailer for consumption on premises — fees.
16-3-303. Sale of beer by retailer for consumption off premises.
16-3-304. Closing hours for licensed retail establishments.
16-3-305. Sale of alcoholic beverages during closed hours unlawful — lawful business need not be closed.
16-3-306. Proximity to churches and schools restricted.
16-3-307. Sale of liquor at less than posted price unlawful.
16-3-308. Refilling of liquor bottles prohibited.
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16-3-314 and 16-3-315 reserved.
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16-3-321. Keg identification tag.
16-3-322. Recordkeeping.
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Part 4 — Sale of Table Wine

16-3-401. Repealed.
16-3-402. Importation of wine — records.
16-3-403. Repealed.
16-3-404. Repealed.
16-3-405. Carriers' reports of table wine transported.
16-3-406. Financial interest in retailers prohibited.
16-3-407 through 16-3-410 reserved.
16-3-411. Winery.
16-3-412 through 16-3-414 reserved.
16-3-415. Repealed.
16-3-416. Repealed.
16-3-417. Repealed.
16-3-418. Repealed.
16-3-419. Repealed.
16-3-420. Repealed.
16-3-421. Repealed.

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16-3-515. Sales by distributor.
16-3-516. Dock sales.
16-3-517. Sales to public by distributor unlawful.
16-3-518. Consumption of beer, table wine, or sacramental wine on distributor's premises unlawful.
16-3-519. Quarterly report of distributor and retailer.
16-3-520. Injunction to prevent franchise cancellation.

Part 1
Official Controls

16-3-101. Alcoholic beverage transactions — only in accordance with code. (1) A person who manufactures, imports, distributes, or sells alcoholic beverages or the person's agent may not give or sell to any person within the state any alcoholic beverage except as may be permitted by and in accordance with the provisions of this code.

(2) (a) Except as otherwise provided by this code, a person or the person's agent may not ship, transport, or consign or cause to be shipped, transported, or consigned:

(i) any alcoholic beverage to any person in this state; or

(ii) any liquor except to the state liquor warehouse.

(b) The prohibition in subsection (2)(a) includes alcoholic beverages ordered or purchased by telephone, computer, or other device.

History: En. Sec. 46, Ch. 105, L. 1933; re-en. Sec. 2815.105, R.C.M. 1935; Sec. 4-151, R.C.M. 1947; redes. 4-3-101 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-101; amd. Sec. 2, Ch. 19, L. 1985; amd. Sec. 17, Ch. 68, L. 1987; amd. Sec. 3, Ch. 543, L. 2001; amd. Sec. 1, Ch. 591, L. 2023; amd. Sec. 25, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 25, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

16-3-102. Repealed. Sec. 4, Ch. 47, L. 1983.

History: En. Sec. 53, Ch. 105, L. 1933; re-en. Sec. 2815.112, R.C.M. 1935; Sec. 4-158, R.C.M. 1947; amd. and redes. 4-3-102 by Sec. 21, Ch. 387, L. 1975; R.C.M. 1947, 4-3-102; amd. Sec. 11, I.M. No. 81, app. Nov. 7, 1978.

16-3-103. Unlawful sales solicitation or advertising — exceptions. (1) A person within the state may not:

(a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless permitted to do so under rules that are promulgated by the department to govern the activities;

(b) canvass for or solicit orders for the purchase or sale of any beer except in the case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this code;

(c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with the rules.

(2) This section does not apply to:

(a) the department, any act of the department, any agency liquor store;

(b) the sale and serving of beer and table wine in the grandstand and bleacher area of a county fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-111 or 16-4-204; or

(c) the sale of alcohol at a sporting event conducted at a Montana university as provided in 16-4-112.

History: En. Sec. 65, Ch. 105, L. 1933; re-en. Sec. 2815.124, R.C.M. 1935; amd. Sec. 1, Ch. 140, L. 1974; amd. Sec. 1, Ch. 274, L. 1975; Sec. 4-170, R.C.M. 1947; redes. 4-3-103 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-103; amd. Sec. 1, Ch. 134, L. 1985; amd. Sec. 1, Ch. 180, L. 1987; amd. Sec. 3, Ch. 599, L. 1993; amd. Sec. 28, Ch. 530, L. 1995; amd. Sec. 2, Ch. 395, L. 2021; amd. Sec. 2, Ch. 591, L. 2023; amd. Sec. 1, Ch. 645, L. 2023.

Cross-References

Rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

16-3-104. Common carriers to purchase beer from brewer, beer importer, or distributor. The operator of any common carrier or its employees may not sell or dispose of any beer except beer that has been lawfully acquired or purchased from a licensed brewer, beer importer, or distributor.

History: En. Sec. 37, Ch. 106, L. 1933; re-en. Sec. 2815.41, R.C.M. 1935; Sec. 4-338, R.C.M. 1947; amd. and redes. 4-3-104 by Sec. 67, Ch. 387, L. 1975; R.C.M. 1947, 4-3-104; amd. Sec. 3, Ch. 19, L. 1985; amd. Sec. 3, Ch. 591, L. 2023; amd. Sec. 26, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 26, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-105. Restrictions on alcoholic beverages in hotels. Except in the case of alcoholic beverages kept or consumed in premises for which a license has been granted under the law and that form a part of a hotel, a person may not:

(1) keep or consume alcoholic beverages in any part of a hotel other than a private guest room;

(2) keep or have any alcoholic beverage in any room in a hotel unless the person is a bona fide guest of the hotel and is registered in the office of the hotel as an occupant of that room.

History: En. Sec. 64, Ch. 105, L. 1933; re-en. Sec. 2815.123, R.C.M. 1935; amd. Sec. 1, Ch. 152, L. 1974; Sec. 4-169, R.C.M. 1947; redes. 4-3-105 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-105; amd. Sec. 18, Ch. 68, L. 1987; amd. Sec. 188, Ch. 56, L. 2009.

Cross-References

Licensing and regulation of hotels and motels, Title 50, ch. 51.

16-3-106. Conveyance of alcoholic beverages — opening alcoholic beverages during transit forbidden. (1) It is lawful to carry or convey alcoholic beverages to any place to which the alcoholic beverages may be lawfully delivered under this code and the rules of the department.

(2) It is unlawful to:

(a) open, break, or allow to be opened or broken any package or vessel containing an alcoholic beverage; or

(b) drink or use or allow to be drunk or used any alcoholic beverage while it is being carried or conveyed.

History: En. Sec. 17, Ch. 105, L. 1933; re-en. Sec. 2815.76, R.C.M. 1935; Sec. 4-122, R.C.M. 1947; amd. and redes. 4-2-103 by Sec. 12, Ch. 387, L. 1975; R.C.M. 1947, 4-2-103; amd. Sec. 19, Ch. 68, L. 1987; amd. Sec. 29, Ch. 530, L. 1995; amd. Sec. 4, Ch. 591, L. 2023.

Cross-References

Rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

16-3-107. Resident representatives required. (1) For the purposes of this section, "vendor" means an individual or a partnership, association, or corporation that sells liquor to the department.

(2) A vendor who desires to promote the sale of the vendor's product in the state shall employ at least one representative and, except as provided in subsection (3), may employ four additional representatives to promote the sale of the vendor's product. A representative employed under this section must be a resident of the state or become a resident after employment. A representative may not be under the age of 21. The department may determine further registration requirements by rule.

(3) A vendor may employ an unlimited number of representatives if the representative is a direct employee, an owner, or an officer of the distillery and is not employed through an independent contractor.

History: En. Sec. 1, Ch. 293, L. 1987; amd. Sec. 1, Ch. 372, L. 2003; amd. Sec. 1, Ch. 264, L. 2015.

Part 2
Regulation of Brewers, Beer Importers, and Beer Wholesalers

16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than prescribed unlawful — personal brewing. (1) It is unlawful to manufacture, import, sell or dispose of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than authorized or other than in the manner permitted by this code.

(2) This code does not prohibit the manufacture of beer, for personal or family use and not intended for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer, for personal or family use, on premises other than those of the person brewing the beer.

History: En. Sec. 5, Ch. 106, L. 1933; re-en. Sec. 2815.14, R.C.M. 1935; Sec. 4-309, R.C.M. 1947; amd. and redes. 4-3-201 by Sec. 49, Ch. 387, L. 1975; R.C.M. 1947, 4-3-201; amd. Sec. 4, Ch. 19, L. 1985; amd. Sec. 2, Ch. 546, L. 1997.

Cross-References

Beer defined, 16-1-106.

16-3-202. Beer sale by department prohibited. The sale of beer by the department is hereby prohibited.

History: En. Sec. 4, Ch. 106, L. 1933; re-en. Sec. 2815.13, R.C.M. 1935; amd. Sec. 1, Ch. 89, L. 1937; amd. Sec. 1, Ch. 186, L. 1947; Sec. 4-308, R.C.M. 1947; amd. and redes. 4-3-202 by Sec. 48, Ch. 387, L. 1975; R.C.M. 1947, 4-3-202.

16-3-203 through 16-3-210 reserved.

16-3-211. Monthly report of brewer, beer importer, or retailer — inspection of books and premises. (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on or before the 15th day of each month, as prescribed by the department, make an exact return to the department of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or importer in the previous month, and the inventory of the brewer or importer. The department may make an examination

of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer or importer.

(2) Every retailer licensed to do business in this state shall, on or before the 15th day of each month, as prescribed by the department, make an exact return to the department of the amount of beer purchased in the previous month directly from any brewery not located in the state of Montana.

History: En. Sec. 7, Ch. 106, L. 1933; re-en. Sec. 2815.16, R.C.M. 1935; Sec. 4-311, R.C.M. 1947; amd. and redes. 4-3-203 by Sec. 51, Ch. 387, L. 1975; R.C.M. 1947, 4-3-203; amd. Sec. 5, Ch. 19, L. 1985; amd. Sec. 1, Ch. 516, L. 2007; amd. Sec. 1, Ch. 749, L. 2023.

16-3-212. Brewers' or beer importers' sales to distributors lawful. A licensed or registered brewer may sell or deliver beer manufactured by the brewer to any licensed distributor. A licensed or registered beer importer may sell or deliver beer imported by the importer to any licensed distributor.

History: En. Sec. 9, Ch. 106, L. 1933; amd. Sec. 3, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.18, R.C.M. 1935; Sec. 4-313, R.C.M. 1947; amd. and redes. 4-3-204 by Sec. 52, Ch. 387, L. 1975; R.C.M. 1947, 4-3-204; amd. Sec. 6, Ch. 19, L. 1985; amd. Sec. 189, Ch. 56, L. 2009; amd. Sec. 2, Ch. 749, L. 2023; amd. Sec. 27, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 27, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-213. Brewers or beer importers not to retail beer — small brewery exceptions — brewer collaboration. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(9), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 200 gallons or more than 60,000 barrels, including:

(i) the production of all affiliated manufacturers; and

(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises, subject to subsection (4). The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises sample room consumption, including all affiliated manufacturers.

(3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

(a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity;

(b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or

(c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.

(4) A small brewery may serve in its sample room beer not brewed and fermented on the premises if:

(a) the beer is brewed in collaboration with another brewery, including multiple breweries;

(b) all brewers were actively involved in the brewing of the beer. For the purposes of this subsection (4)(b), the term "actively involved" means that all brewers were present for the brewing process.

(c) no more than six distinct collaboration beers, brewed and fermented at another brewery, may be served in a calendar year;

(d) the amount of beer that a brewer serves under this section, for any one type of distinct collaboration beer, does not exceed an equal proportion of the beer produced based on the number of participating breweries or seven barrels, whichever is less; and

(e) all brewers report to the department:

(i) that the brewers will collaborate as provided in this subsection (4) prior to the collaboration; and

(ii) sales from the collaboration for tax reporting.

(5) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9), beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this section. Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes.

History: En. Sec. 11, Ch. 106, L. 1933; re-en. Sec. 2815.20, R.C.M. 1935; Sec. 4-315, R.C.M. 1947; redes. 4-3-205 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-205; amd. Sec. 7, Ch. 19, L. 1985; amd. Sec. 1, Ch. 149, L. 1985; amd. Sec. 1, Ch. 116, L. 1999; amd. Sec. 2, Ch. 271, L. 2017; amd. Sec. 4, Ch. 194, L. 2021; amd. Sec. 1, Ch. 443, L. 2023; amd. Sec. 1, Ch. 601, L. 2023; amd. Sec. 3, Ch. 622, L. 2023.

16-3-214. Beer sales by brewers — sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to:

(a) sell and deliver beer from its storage depot or brewery to:

(i) a distributor;

(ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:

(A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and

(B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year; or

(iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or growlers;

(b) provide its own products for consumption on its licensed premises without charge or, if it is a small brewery, provide its own products or collaboration products at a sample room as provided in 16-3-213; or

(c) do any one or more of the acts of sale and delivery of beer as provided in this code.

(2) A brewery may not use a common carrier for delivery of the brewery's product to the public or to licensed retailers.

(3) A brewery may import or purchase, upon terms and conditions the department may require, necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing purposes.

(4) An additional license fee may not be imposed on a brewery providing its own products on its licensed premises for consumption on the premises.

(5) This section does not prohibit a licensed or registered brewer from shipping and selling beer directly to a distributor in this state.

(6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9), beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes.

History: En. Sec. 13, Ch. 106, L. 1933; amd. Sec. 4, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.22, R.C.M. 1935; amd. Sec. 4, Ch. 166, L. 1951; amd. Sec. 1, Ch. 135, L. 1959; amd. Sec. 1, Ch. 296, L. 1969; amd. Sec. 1, Ch. 421, L. 1971; Sec. 4-317, R.C.M. 1947; amd. and redes. 4-3-206 by Sec. 53, Ch. 387, L. 1975; R.C.M. 1947, 4-3-206; amd. Sec. 2, Ch. 149, L. 1985; amd. Sec. 1, Ch. 721, L. 1991; amd. Sec. 1, Ch. 122, L. 1993; amd. Sec. 2, Ch. 116, L. 1999; amd. Sec. 4, Ch. 543, L. 2001; amd. Sec. 2, Ch. 516, L. 2007; amd. Sec. 3, Ch. 277, L. 2011; amd. Sec. 5, Ch. 194, L. 2021; amd. Sec. 2, Ch. 443, L. 2023; amd. Sec. 2, Ch. 601, L. 2023; amd. Sec. 3, Ch. 749, L. 2023; amd. Sec. 28, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 28, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

16-3-215 and 16-3-216 reserved.

16-3-217. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 1, Ch. 61, L. 1987.

16-3-218. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 3, Ch. 61, L. 1987; amd. Sec. 3, Ch. 115, L. 2013; amd. Sec. 1, Ch. 568, L. 2021; amd. Sec. 3, Ch. 138, L. 2023.

16-3-219. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 4, Ch. 61, L. 1987; amd. Sec. 1, Ch. 501, L. 2007; amd. Sec. 6, Ch. 194, L. 2021.

16-3-220. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 5, Ch. 61, L. 1987; amd. Sec. 1, Ch. 139, L. 1995; amd. Sec. 91, Ch. 42, L. 1997.

16-3-221. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.2 by Sec. 1, Ch. 322, L. 1974; Sec. 4-317.2, R.C.M. 1947; redes. 4-3-207 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-207; amd. Sec. 8, Ch. 19, L. 1985; amd. Sec. 1, Ch. 409, L. 1995; amd. Sec. 1, Ch. 130, L. 1997; amd. Sec. 2, Ch. 181, L. 2009.

16-3-222. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.3 by Sec. 2, Ch. 322, L. 1974; Sec. 4-317.3, R.C.M. 1947; redes. 4-3-208 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-208; amd. Sec. 9, Ch. 19, L. 1985; amd. Sec. 1, Ch. 194, L. 1999; amd. Sec. 3, Ch. 181, L. 2009.

16-3-223. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.4 by Sec. 3, Ch. 322, L. 1974; Sec. 4-317.4, R.C.M. 1947; redes. 4-3-209 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-209; amd. Sec. 10, Ch. 19, L. 1985; amd. Sec. 190, Ch. 56, L. 2009.

16-3-224. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.5 by Sec. 4, Ch. 322, L. 1974; Sec. 4-317.5, R.C.M. 1947; redes. 4-3-210 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-210; amd. Sec. 11, Ch. 19, L. 1985.

16-3-225. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.6 by Sec. 5, Ch. 322, L. 1974; Sec. 4-317.6, R.C.M. 1947; redes. 4-3-211 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-211; amd. Sec. 12, Ch. 19, L. 1985.

16-3-226. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. 4-317.7 by Sec. 6, Ch. 322, L. 1974; Sec. 4-317.7, R.C.M. 1947; amd. and redes. 4-3-212 by Sec. 55, Ch. 387, L. 1975; R.C.M. 1947, 4-3-212; amd. Sec. 13, Ch. 19, L. 1985; amd. Sec. 1, Ch. 118, L. 2023.

16-3-227 through 16-3-229 reserved.

16-3-230. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 14, Ch. 106, L. 1933; amd. Sec. 5, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.23, R.C.M. 1935; amd. Sec. 1, Ch. 246, L. 1947; amd. Sec. 5, Ch. 166, L. 1951; amd. Sec. 1, Ch. 222, L. 1965; Sec. 4-318, R.C.M. 1947; amd. and redes. 4-4-103 by Sec. 56, Ch. 387, L. 1975; R.C.M. 1947, 4-4-103(part); amd. Sec. 2, Ch. 178, L. 1983; amd. Sec. 14, Ch. 19, L. 1985; amd. Sec. 1, Ch. 192, L. 1999; amd. Sec. 5, Ch. 591, L. 2023; amd. Sec. 4, Ch. 749, L. 2023.

16-3-231. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 15, Ch. 106, L. 1933; re-en. Sec. 2815.24, R.C.M. 1935; Sec. 4-319, R.C.M. 1947; amd. and redes. 4-3-213 by Sec. 57, Ch. 387, L. 1975; R.C.M. 1947, 4-3-213; amd. Sec. 191, Ch. 56, L. 2009.

16-3-232. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 17, Ch. 106, L. 1933; amd. Sec. 6, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.26, R.C.M. 1935; Sec. 4-321, R.C.M. 1947; amd. and redes. 4-3-214 by Sec. 59, Ch. 387, L. 1975; R.C.M. 1947, 4-3-214; amd. Sec. 192, Ch. 56, L. 2009.

16-3-233. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 18, Ch. 106, L. 1933; amd. Sec. 7, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.27, R.C.M. 1935; amd. Sec. 1, Ch. 274, L. 1973; Sec. 4-322, R.C.M. 1947; redes. 4-3-215 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-215; amd. Sec. 193, Ch. 56, L. 2009; amd. Sec. 6, Ch. 591, L. 2023; amd. Sec. 2, Ch. 81, L. 2025.

16-3-234. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 19, Ch. 106, L. 1933; re-en. Sec. 2815.28, R.C.M 1935; Sec. 4-323, R.C.M. 1947; redes. 4-3-216 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-216.

16-3-235. Carriers' reports of beer transported. Every railroad and every motor carrier transporting beer manufactured out of this state from points without this state and delivering the same to points within this state shall, if requested by the department, on or before the 15th day of each month, make an exact return to the department of the amount of such beer so transported and delivered by such railroad or motor carrier during the previous month and shall state in such return the name and address of the consignor, the name and address of the consignee, the date of delivery, and the amount delivered. A carrier shall retain for 30 months all pertinent and relevant records necessary for the preparation of this report and any other information the department may require.

History: En. Sec. 4, Ch. 220, L. 1939; Sec. 4-326, R.C.M. 1947; amd. and redes. 4-3-218 by Sec. 61, Ch. 387, L. 1975; R.C.M. 1947, 4-3-218; amd. Sec. 1, Ch. 207, L. 1991.

16-3-236 through 16-3-240 reserved.

16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer importers, and distributors unlawful — exceptions. (1) (a) Except as provided in subsection (3), it is unlawful for any brewer, beer importer, or distributor to lease, furnish, give, or pay for any premises, furniture, fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or distributor to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed $300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture. Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or distributor, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A distributor may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises.

History: En. Sec. 18, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.51, R.C.M. 1935; amd. Sec. 10, Ch. 166, L. 1951; amd. Sec. 1, Ch. 51, L. 1955; amd. Sec. 1, Ch. 110, L. 1959; amd. Sec. 1, Ch. 49, L. 1967; Sec. 4-349, R.C.M. 1947; amd. and redes. 4-3-219 by Sec. 74, Ch. 387, L. 1975; R.C.M. 1947, 4-3-219; amd. Sec. 1, Ch. 568, L. 1981; amd. Sec. 15, Ch. 19, L. 1985; amd. Sec. 1, Ch. 229, L. 1985; amd. Sec. 1, Ch. 247, L. 2005; amd. Sec. 3, Ch. 601, L. 2023; amd. Sec. 29, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 29, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Beer advertising limits, 16-3-244.

16-3-242. Financial interest in retailers prohibited. (1) A brewer or beer importer may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer or beer importer may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer or beer importer is considered to have a financial interest within the meaning of this section if:

(a) the brewer or beer importer owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises; or

(b) the brewer or beer importer is under any contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other.

(2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the limitations of this section for the licensed brewery's retail-licensed premises.

History: En. 4-3-220 by Sec. 75, Ch. 387, L. 1975; R.C.M. 1947, 4-3-220; amd. Sec. 16, Ch. 19, L. 1985; amd. Sec. 194, Ch. 56, L. 2009; amd. Sec. 4, Ch. 601, L. 2023; amd. Sec. 30, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 30, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-243. Seven-day credit limitation. (1) A brewer, beer importer, or distributor may not sell or deliver beer unless a retail licensee pays within 7 days of the delivery and may not extend more than 7 days' credit for payment for the beer to the retail licensee.

(2) A retail licensee shall pay a brewer, beer importer, or distributor in full for beer within 7 days from the date of delivery and may not accept more than 7 days' credit from a brewer, beer importer, or distributor. Failure to pay in full within 7 days from the date of delivery is considered an impermissible acceptance of credit.

(3) Any extension or acceptance of credit in violation of this section is considered rendering or receiving of financial assistance. Brewers, beer importers, distributors, and retail licensees who violate this section are subject to the penalty provisions of 16-4-406.

History: En. 4-3-221 by Sec. 76, Ch. 387, L. 1975; R.C.M. 1947, 4-3-221; amd. Sec. 17, Ch. 19, L. 1985; amd. Sec. 7, Ch. 591, L. 2023; amd. Sec. 31, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 31, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-244. Beer advertising limitations. (1) Except as provided in subsection (2), it is lawful to advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in 16-3-241 and subject to the following restrictions on retailers. A retail licensee may not display or permit to be displayed on the exterior portion or surface of the retailer's place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the manufacturer, brewer, beer importer, distributor, or place of manufacture of any beer, unless it is on a marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days per display period.

(2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the restrictions in subsection (1) at any of the brewery's licensed premises for products manufactured by the licensed brewery.

History: En. Sec. 11, Ch. 166, L. 1951; Sec. 4-358, R.C.M. 1947; amd. and redes. 4-3-222 by Sec. 77, Ch. 387, L. 1975; R.C.M. 1947, 4-3-222; amd. Sec. 18, Ch. 19, L. 1985; amd. Sec. 1, Ch. 223, L. 1985; amd. Sec. 3, Ch. 197, L. 2009; amd. Sec. 1, Ch. 34, L. 2023; amd. Sec. 5, Ch. 601, L. 2023; amd. Sec. 32, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 32, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Part 3
Retail Sales Restrictions

16-3-301. Unlawful purchases, transfers, sales, or deliveries — presumption of legal age. (1) Except as allowed in 16-4-213(8), it is unlawful for a licensed retailer to:

(a) purchase or acquire beer or wine from anyone except a brewery, winery, or distributor licensed under the provisions of this code;

(b) purchase or acquire table wine from anyone except a liquor store agent or winery or distributor licensed under the provisions of this code;

(c) purchase or acquire wine from anyone except a liquor store agent or winery;

(d) transport alcoholic beverages from one licensed premises or other facility to any other licensed premises owned by the licensee; or

(e) purchase or acquire liquor from anyone except an agency liquor store.

(2) It is unlawful for a licensed distributor to purchase beer, table wine, or sacramental wine from anyone except a brewery, winery, or distributor licensed or registered under this code.

(3) It is unlawful for a liquor store agent to purchase table wine or sacramental wine from anyone except a distributor or winery licensed under this code.

(4) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

(a) any person under 21 years of age; or

(b) any person actually, apparently, or obviously intoxicated.

(5) Any person under 21 years of age or any other person who knowingly misrepresents the person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the licensee and, on conviction, is subject to the penalty provided in 45-5-624, 45-5-638, and 45-5-639. However, nothing in this section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

(6) All licensees shall display in a prominent place in their premises a placard, issued by the department, stating fully the consequences for violations of the provisions of this code by persons under 21 years of age.

(7) For purposes of 45-5-623 and this title, the establishment of the following facts by a person making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

(a) the purchaser falsely represented and supported with documentary evidence that an ordinary and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

(b) the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be of legal age to purchase alcoholic beverages; and

(c) the sale was made in good faith and in reasonable reliance on the representation and appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages.

(8) A licensed retailer may purchase beer and table wine from a licensed in-state retailer and transport the purchased beer and table wine to the licensed retailer's premises. The department may penalize retailers purchasing beer and table wine from out-of-state retailers subject to this code. Purchases under this subsection are limited to a maximum of 6 gallons a day. *(See compiler's comments for contingent termination of certain text.)*

History: (1), (2)En. Sec. 31, Ch. 106, L. 1933; amd. Sec. 11, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.33, R.C.M. 1935; amd. Sec. 7, Ch. 166, L. 1951; amd. Sec. 2, Ch. 240, L. 1971; amd. Sec. 3, Ch. 94, L. 1973; Sec. 4-330, R.C.M. 1947; amd. and redes. 4-3-301 by Sec. 64, Ch. 387, L. 1975; Sec. 4-3-301, R.C.M. 1947; (3)En. Sec. 11, Ch. 84, L. 1937; amd. Sec. 3, Ch. 221, L. 1939; amd. Sec. 1, Ch. 71, L. 1953; amd. Sec. 4, Ch. 240, L. 1971; amd. Sec. 5, Ch. 94, L. 1973; Sec. 4-413, R.C.M. 1947; amd. and redes. 4-3-306 by Sec. 91, Ch. 387, L. 1975; Sec. 4-3-306, R.C.M. 1947; (4)En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec. 104, Ch. 387, L. 1975; Sec. 4-6-404, R.C.M. 1947; R.C.M. 1947, 4-3-301, 4-3-306, 4-6-404(part); amd. Sec. 1, Ch. 186, L. 1979; amd. Sec. 2, Ch. 61, L. 1987; amd. Sec. 1, Ch. 217, L. 1987; (6)En. Sec. 2, Ch. 233, L. 1993; amd. Sec. 1, Ch. 498, L. 2001; amd. Sec. 2, Ch. 501, L. 2007; amd. Sec. 3, Ch. 516, L. 2007; amd. Sec. 2, Ch. 568, L. 2021; amd. Sec. 8, Ch. 591, L. 2023; amd. Sec. 2, Ch. 728, L. 2023; amd. Sec. 3, Ch. 81, L. 2025; amd. Sec. 3, Ch. 155, L. 2025; amd. Sec. 33, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 3, Ch. 81, L. 2025. Amendment effective April 7, 2025.

See 2025 Session Law for amendment made by sec. 3, Ch. 155, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 33, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Contingent Termination Date: Section 9(2), Ch. 217, L. 1987, read: "If the United States congress repeals or removes or a final judgment invalidates the provisions of federal law that require states to raise the legal age for purchasing and possessing alcoholic beverages to 21 as a condition of full receipt of federal highway funds, the governor of Montana shall immediately certify the fact of the repeal, removal, or invalidation to the secretary of state of Montana. This act terminates on the date of such certification."

Cross-References
Legislative authority to enact age restriction, Art. II, sec. 14, Mont. Const.
Giving or receiving liquor as bribe to influence voting, 13-35-214, 13-35-215.
Providing alcoholic beverage to intoxicated person, 16-6-304.
Providing alcoholic beverage to person under 21 years of age, 16-6-305.
Penalties, 16-6-314.
Liability for injuries involving alcohol consumption, 27-1-710.
Bartenders and waitresses to be at least 18 years of age, 39-2-306.
Criminal offense — selling or giving alcoholic beverages to minors, 45-5-623.

16-3-302. Sale by retailer for consumption on premises — fees. (1) It is lawful for a licensed retailer to sell and serve beer, either on draft or in containers, to the public to be consumed on the premises of the retailer.

(2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine:

(a) in the building or other structural premises constituting the clubhouse or primary indoor recreational quarters of the golf course;

(b) upon department approval and submission of a fee, in an additional building or other structure, one per 9 holes of the golf course, that is designed to serve golfers during the course of play; and

(c) at any place within the boundaries of the golf course, from a portable satellite vehicle or other movable satellite device that is moved from place to place.

(3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place within the boundaries of the golf course, whether inside or outside of a building or other structure.

(4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages license to sell alcoholic beverages:

(i) if the licensee's premises include a hotel and are not located within the boundaries of a incorporated city or incorporated town quota area, in up to two licensed alcohol service structures separate from the main licensed premises within the exterior boundaries of the same property that are owned, leased, or otherwise under the control and operated by the same property owner, licensee, and if applicable, concessionaire;

(ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service structure in the swimming pool area separate from the main licensed premises;

(iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service structures separate from the main licensed premises within the exterior boundaries of the same premises that are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if applicable, concessionaire;

(iv) if the licensee's premises include a golf course, the premises in addition to the main licensed premises may include:

(A) the building or alcohol service structure constituting the clubhouse or primary recreational quarters of the golf course that is separate from the main licensed premises; and

(B) the outdoor area within the boundaries of the golf course.

(b) Buildings or structural premises allowed under this subsection (4) may be separate from the building comprising the main licensed premises but must otherwise meet the premises suitability requirements of 16-3-311. The licensee shall pay an application fee of $100 for each area allowed under this subsection (4).

(5) It is lawful for a licensee who has an on-premises consumption license that is operated within a resort area as defined in 16-4-212 to allow the on-premises consumption of alcoholic beverages not sold or provided at the licensed premises if those alcoholic beverages are sold or provided by another on-premises licensee authorized to sell the same type of alcoholic beverages within the same resort area.

(6) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued under 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest ranch as defined in 16-1-106. The guest ranch must be owned by the licensee or by a concessionaire with which the licensee has a concession agreement under 16-4-418. For a license operated at a guest ranch, alcoholic beverages may be served anytime within the outdoor

portions of the licensed premises and in up to three permanent buildings at any time during the hours allowed under 16-3-304.

(b) An applicant or licensee desiring to operate a license as described in this subsection (6) shall submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both the indoor and outdoor portions of the premises. The floorplan of the licensed premises and each additional building must be submitted to the department as part of a license application or as part of a premises alteration request as described in 16-3-311(2). The license application or premises alteration request must be accompanied by a fee of $100 for each additional building.

(c) A license operated at a guest ranch is subject to the requirements that are applicable to retail licenses generally, including the premises suitability provisions of 16-3-311, except that:

(i) the premises may include any number of temporary, mobile, or partial structures, including but not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other structures that are not permanent buildings, provided that all temporary, mobile, or partial structures may not be used for alcohol storage purposes unless approved by the department, and may only be used for alcohol service and consumption if they remain within the licensee's approved outdoor premises area;

(ii) the premises may include any outdoor areas in which the licensee or concessionaire has possessory interest, which may be demonstrated by property ownership records, a lease agreement, a concession agreement, or other evidence of possessory interest acceptable to the department;

(iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the premises are otherwise contiguous;

(iv) a perimeter barrier is not required if the property line is otherwise marked; and

(v) the premises may be identified on the license by legal description rather than by building address.

(d) For the purposes of this subsection (6), the term "permanent building" means a fixed, nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures.

(7) It is lawful for a licensee who has an all-beverages continuing care retirement community license to sell alcoholic beverages at multiple service locations on the campus as provided in 16-4-315.

History: En. Sec. 29, Ch. 106, L. 1933; re-en. Sec. 2815.31, R.C.M. 1935; Sec. 4-328, R.C.M. 1947; amd. and redes. 4-3-302 by Sec. 63, Ch. 387, L. 1975; R.C.M. 1947, 4-3-302; amd. Sec. 1, Ch. 646, L. 1987; amd. Sec. 195, Ch. 56, L. 2009; amd. Sec. 4, Ch. 622, L. 2023; amd. Sec. 8, Ch. 728, L. 2023; amd. Sec. 1, Ch. 307, L. 2025; amd. Sec. 1, Ch. 745, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 307, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 745, L. 2025. Amendment effective June 1, 2025.

16-3-303. Sale of beer by retailer for consumption off premises. It is lawful for an on-premises retailer to sell or furnish beer to the public in its original package, in prepared servings, or in growlers, and the beer must be taken away from the premises of the retailer for consumption off the premises of the retailer. Growlers may not be filled in advance of sale and may be furnished by the consumer.

History: En. Sec. 30, Ch. 106, L. 1933; amd. Sec. 10, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.32, R.C.M. 1935; amd. Sec. 1, Ch. 177, L. 1961; Sec. 4-329, R.C.M. 1947; redes. 4-3-303 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-303; amd. Sec. 2, Ch. 77, L. 2011; amd. Sec. 7, Ch. 194, L. 2021.

16-3-304. Closing hours for licensed retail establishments. Except as provided in 16-3-305, all licensed establishments wherein alcoholic beverages are sold, offered for sale, or given away at retail shall be closed each day between 2 a.m. and 8 a.m.; provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of alcoholic beverages, then the sale of alcoholic beverages is prohibited within the limits of any such city or town during the time such sale is prohibited by this code and in addition thereto during the hours that it is prohibited by such ordinance. During such hours all persons except the alcoholic beverage licensee and employees of such licensed establishment shall be excluded from the licensed premises.

History: En. Sec. 1, Ch. 161, L. 1943; amd. Sec. 1, Ch. 162, L. 1959; amd. Sec. 1, Ch. 242, L. 1973; Sec. 4-303, R.C.M. 1947; amd. and redes. 4-3-304 by Sec. 46, Ch. 387, L. 1975; R.C.M. 1947, 4-3-304; amd. Sec. 1, Ch. 347, L. 1985.

16-3-305. Sale of alcoholic beverages during closed hours unlawful — lawful business need not be closed. During the hours when the licensed establishments where alcoholic beverages are sold at retail are required by this code to be closed, it shall be unlawful to sell, offer for sale, give away, consume, or allow the consumption of alcoholic beverages. When an establishment licensed to sell alcoholic beverages is operated in conjunction with a hotel, restaurant, bus depot, railway terminal, grocery store, pharmacy, or other lawful business other than that of the sale of alcoholic beverages, then such other lawful business need not be closed.

History: En. Sec. 3, Ch. 161, L. 1943; Sec. 4-304, R.C.M. 1947; amd. and redes. 4-3-305 by Sec. 47, Ch. 387, L. 1975; R.C.M. 1947, 4-3-305; amd. Sec. 2, Ch. 347, L. 1985.

16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) through (4), a retail license may not be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation on the department's licensing authority.

(2) The department may renew a license, approve the transfer of ownership of a license, or allow the current licensee to apply for a new license type for any establishment located in violation of this section if the licensee does not relocate an entrance any closer than the existing entrances and if the establishment:

(a) was located on the site before the place of worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

(4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309.

History: En. Sec. 13, Ch. 84, L. 1937; Sec. 4-415, R.C.M. 1947; amd. and redes. 4-4-107 by Sec. 92, Ch. 387, L. 1975; R.C.M. 1947, 4-4-107; amd. Sec. 1, Ch. 152, L. 1981; amd. Sec. 1, Ch. 662, L. 1983; amd. Sec. 196, Ch. 56, L. 2009; amd. Sec. 9, Ch. 591, L. 2023.

Cross-References

Application of this section to sales under catering endorsement, 16-4-204.

16-3-307. Sale of liquor at less than posted price unlawful. Except as provided in 16-2-201, it is unlawful for a licensee under the provisions of this code to resell liquor purchased by the licensee from an agency liquor store for a sum less than the posted price established by the department.

History: En. Sec. 19, Ch. 84, L. 1937; Sec. 4-421, R.C.M. 1947; amd. and redes. 4-3-307 by Sec. 98, Ch. 387, L. 1975; R.C.M. 1947, 4-3-307; amd. Sec. 30, Ch. 530, L. 1995; amd. Sec. 2, Ch. 12, L. 2013.

16-3-308. Refilling of liquor bottles prohibited. (1) A person who sells or offers liquor for sale, or an agent or employee of the person, may not:

(a) place in any liquor bottle any liquor other than that contained in the bottle at the time of bottling by an alcoholic beverage manufacturer;

(b) possess any liquor bottle in which any liquor has been placed in violation of subsection (1)(a);

(c) by the addition of any substance to any liquor bottle, in any manner alter or increase any portion of the original contents contained in the bottle at the time of bottling by an alcoholic beverage manufacturer; or

(d) possess any liquor bottle of which any portion of its contents has been altered or increased in violation of subsection (1)(c).

(2) This section does not prohibit any reuse of liquor bottles that is permitted under laws or regulations of the federal government.

History: En. 4-3-308 by Sec. 117, Ch. 387, L. 1975; R.C.M. 1947, 4-3-308; amd. Sec. 10, Ch. 591, L. 2023.

Cross-References

Consumer Protection Act, Title 30, ch. 14, part 1.

16-3-309. Sales prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold.

(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold.

(3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of 16-3-306(1), upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification.

(4) No county or incorporated city may by ordinance restrict the number of licenses that the department may issue.

History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(part); amd. Sec. 2, Ch. 662, L. 1983.

Cross-References

Denial of license for premises within prohibited zone, 16-4-405.

County and municipal planning and zoning, Title 76, ch. 2.

16-3-310. Lapse of license for nonuse — approved nonuse. (1) Any retail license issued pursuant to this code (including any retail license to sell beer and table wine for off-premises consumption) not actually used in a going establishment for 90 days must automatically lapse if the licensee does not notify the department within the 90-day time period. On determining the fact of nonuse for this period, the department shall cancel the license of record and no portion of the fee paid for it may be refundable.

(2) The provisions of this section do not apply to the license of any licensee whose premises are operated on a seasonal basis, provided the licensee has secured written authority from the department to close and has licensed premises for a specified period of greater than 90 days' duration.

(3) If the licensee notifies the department within the 90 days of nonuse, the department shall grant approved nonuse for up to 1 year. The department may extend the nonuse period if the licensee provides evidence that the delay in use is for reasons outside the licensee's control or that the licensee is progressing on a department-approved alteration.

History: En. 4-4-203 by Sec. 80, Ch. 387, L. 1975; R.C.M. 1947, 4-4-203; amd. Sec. 20, Ch. 68, L. 1987; amd. Sec. 1, Ch. 35, L. 2023.

16-3-311. Suitable premises for licensed retail establishments. (1) (a) A licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as otherwise allowed in 16-3-302. The licensed retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are actually or apparently intoxicated. Except as provided in subsections (8), (10), and (11), the premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow another business entity to operate a business within its premises without permanent floor-to-ceiling walls and without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. For the purposes of this subsection (1)(a), the term "self-service" does not include when customers self-pour beer and wine after an on-premises licensee, including the licensee's employees, concessionaire, or concessionaire's employees, has provided alcohol, including:

(i) large containers of beer or wine, such as pitchers, buckets, or bottles, but not including liquor; or

(ii) if approved by the department, electronic devices or other technology-based devices with predetermined limits used to measure and supply customers with a predetermined volume of beer or wine if the electronic device or other technology-based device is monitored by the licensee, the licensee's employees, the concessionaire, or the concessionaire's employees to ensure that people are not overserved.

(b) A resort retail all-beverages licensee, a retail all-beverages licensee, or an on-premises consumption beer and wine licensee within the boundaries of a resort area may also utilize up to three alternate alcoholic beverage storage facilities as allowed in 16-4-213(8).

(2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the proposed alteration for the licensed premises to the department within 7 days of beginning the alteration. Department approval may not be unreasonably withheld. If the completed alteration differs from the approved alteration due to modifications required for approval by other state or local government entities, such as compliance with fire or building codes, the department must be notified, but preapproval is not required for these modifications. An alteration for the purposes of this section is any structural change in a premises that does not increase the square footage of the existing approved premises. An alteration that increases the square footage of the existing approved premises must be approved by the department prior to beginning the alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the inspections by local government agencies may not be required for department approval.

(3) The interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators.

(4) The premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic.

(5) Premises suitability does not include a minimum number of seats.

(6) A licensed retailer may apply to the department to have a noncontiguous storage area that is under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is $100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain control and adequate safeguards are in place to prevent public access.

(7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent underage service. The application fee is $100.

(8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the licensees are able to maintain control of their respective premises through adequate physical separation.

(9) (a) For the purposes of this section, "adequate physical separation" means:

(i) the premises of the retailer and the premises of the brewery or winery are secured after business hours from each other and from any other business, including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and

(ii) the separation may include doors, gates, or windows that may be left open during business hours.

(b) The term does not require permanent floor-to-ceiling walls.

(10) For colocated premises authorized in 16-4-401(9), there are no physical separation requirements applied by this code but the licensee shall follow any federal requirements.

(11) A public airport all-beverages licensee, licensed pursuant to 16-4-208, or the Yellowstone airport beer and wine licensee, licensed pursuant to 16-4-304, may use the airport terminal or part of the terminal as premises licensed for the on-premises consumption of alcoholic beverages without regard to other businesses or uses in the terminal. The airport licensee must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access.

History: En. Sec. 1, Ch. 203, L. 1993; amd. Sec. 1, Ch. 161, L. 2021; amd. Sec. 3, Ch. 568, L. 2021; amd. Sec. 1, Ch. 21, L. 2023; amd. Sec. 6, Ch. 601, L. 2023; amd. Sec. 12, Ch. 749, L. 2023; amd. Sec. 1, Ch. 231, L. 2025; amd. Sec. 2, Ch. 745, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 231, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 745, L. 2025. Amendment effective June 1, 2025.

16-3-312. Curbside pickup. (1) Licensed entities and agency liquor stores provided under subsection (3) may offer curbside pickup.

(2) Curbside pickup constitutes the sale of alcoholic beverages in original packaging, prepared servings, or growlers that was ordered online, through the phone, or in person, including but not limited to ordering through a drive-through window, for pickup from the licensee or agency liquor store during normal business hours and within 300 feet of the licensed premises or agency liquor stores, including a drive-through window. Curbside pickup is intended for consumption somewhere other than the pickup location. It is not intended for delivery to residences or other businesses, including but not limited to restaurants or hotels.

(3) This only applies to licenses issued under 16-3-213, 16-3-214, 16-3-411, 16-4-105, 16-4-110, 16-4-115, 16-4-201, 16-4-209, 16-4-213, 16-4-312, and 16-4-420, and agency liquor stores under 16-2-101.

History: En. Sec. 1, Ch. 194, L. 2021; amd. Sec. 1, Ch. 103, L. 2023; amd. Sec. 1, Ch. 359, L. 2023.

16-3-313. Periodic government or tribal-issued identification data destruction. (1) A business that scans a physical or digital version of a person's government or tribal-issued identification to determine the person's age solely for the sale of age-restricted items:

(a) shall use data or metadata from the scan only to determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days.

(2) Nothing in this section may be construed to limit the collection and preservation of information required by federal law for the sale of ephedrine or pseudoephedrine.

History: En. Sec. 1, Ch. 264, L. 2021; amd. Sec. 1, Ch. 115, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 115, L. 2025. Amendment effective October 1, 2025.

16-3-314 and 16-3-315 reserved.

16-3-316. Fundraising events for nonprofit and tax-exempt organizations. (1) A nonprofit organization governed under Title 35, chapter 2, or an organization designated as tax-exempt under the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended, may raffle or auction alcoholic beverages at fundraising events. Any alcoholic beverage raffled or auctioned must be given by the organization to the raffle or auction winner sealed in its original package.

(2) If the fundraising event is held on the premises of a business licensed under this code or on premises for which a permit has been issued under this code, the alcoholic beverage may not be consumed on the premises. An alcoholic beverage that is on a licensee's premises solely for a fundraising event under this section does not constitute a violation by the licensee of 16-3-301(1)(a) or 16-6-303.

(3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at which alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time any raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must be to directly support bona fide charitable, nonprofit, or tax-exempt activities.

(4) An alcoholic beverage for raffle or auction must be:

(a) acquired, whether by purchase or donation, by the organization from a retailer or manufacturer licensed under the provisions of this code;

(b) acquired, whether by purchase at not less than the posted price or by donation, by the organization from an agency liquor store; or

(c) received by the organization as a donation at no cost to the organization from any other person except one licensed as a distributor under this code.

(5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided the alcoholic beverages to the organization for the raffle or auction.

(6) For a raffle or auction described in subsection (1), raffle tickets may not be sold to, and auction bids may not be solicited or received from, any person under 21 years of age. The organization raffling or auctioning alcoholic beverages may not sell, deliver, or give away any alcoholic beverage to a person under 21 years of age or to any person actually, apparently, or obviously intoxicated.

(7) As used in this section:

(a) "auction" means the sale of an item or items, which may include alcoholic beverages, whereby the item for sale is sold to the highest bidder at the bid price. An auctioned item or items may have a reserve price.

(b) "raffle" means an event in which a nonprofit or tax-exempt organization sells tickets and each ticket gives the purchaser of the ticket the chance to win a prize, which may include alcoholic beverages, with the winner determined by a random drawing.

History: En. Sec. 2, Ch. 86, L. 2011; amd. Sec. 11, Ch. 591, L. 2023; amd. Sec. 5, Ch. 622, L. 2023; amd. Sec. 34, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 34, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-317 through 16-3-320 reserved.

16-3-321. Keg identification tag. (1) A licensee may not sell a keg of beer unless an identification tag is attached to the keg by the licensee.

(2) An identification tag must consist of paper, plastic, metal, or durable material that is not easily damaged or destroyed. An identification tag may be attached to a keg at the time of sale with a nylon tie or cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the keg.

(3) The identification information contained on the tag must include:

(a) the licensee's name, address, and telephone number; and

(b) a prominently visible warning that intentional removal or defacement of the tag is a criminal offense.

(4) A retailer that accepts the return of a keg that does not have an identification tag attached shall obtain the information required in 16-3-322 on the original purchaser, to the extent possible, and obtain the same information on the person returning the keg. This information must be kept on file with the retailer for not less than 45 days from the date of return.

(5) A person, other than the licensee, the distributor of malt beverages, or a law enforcement officer, may not intentionally remove identification placed on a keg in compliance with this section.

(6) For the purposes of 16-3-321 through 16-3-324, the following definitions apply:

(a) "Keg" means a brewery-sealed, single container that contains not less than 7 gallons of beer.

(b) "Licensee" means a person who is licensed under Title 16, chapter 4, and who sells kegs to a consumer.

(7) The department shall develop and make available the identification tags required by this section.

History: En. Sec. 1, Ch. 441, L. 2005; amd. Sec. 35, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 35, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-322. Recordkeeping. (1) A licensee, at the time of the sale of a keg, shall record the following:

(a) the purchaser's name, address, and date of birth and the number of the purchaser's driver's license, state-issued or military identification card, tribal identification card, or valid United States or foreign passport;

(b) the date of purchase;

(c) the name of the clerk making the sale; and

(d) the purchaser's signature and date of purchase.

(2) The licensee shall maintain the record for not less than 45 days after the date of the sale.

(3) A licensee who maintains the records required by this section shall make the records available during regular business hours for inspection by law enforcement pursuant to 16-3-323.

History: En. Sec. 2, Ch. 441, L. 2005; amd. Sec. 16, Ch. 44, L. 2007; amd. Sec. 1, Ch. 180, L. 2007.

16-3-323. Enforcement. (1) A law enforcement officer may not request information on file about the original purchaser of a keg unless in connection with a violation of 16-6-305, 45-5-623, or 45-5-638(4). The officer shall return any recovered keg to the licensee and verify the information on file about the original purchaser.

(2) The deposit on the keg and any related deposit to the licensee must be forfeited by the original purchaser.

History: En. Sec. 3, Ch. 441, L. 2005; amd. Sec. 4, Ch. 155, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 155, L. 2025. Amendment effective October 1, 2025.

16-3-324. Violations. (1) A person who knowingly fails to attach a keg tag as provided in 16-3-321 is guilty of a misdemeanor and shall be fined an amount not to exceed $100.

(2) A person may not remove, deface, or damage the identification on a keg purposely to make it unreadable. A person convicted of purposely removing, defacing, or damaging a tag shall be fined an amount not to exceed $500 or be imprisoned in the county jail for not more than 6 months, or both.

History: En. Sec. 4, Ch. 441, L. 2005; amd. Sec. 17, Ch. 44, L. 2007.

Part 4
Sale of Table Wine

Part Cross-References

Connoisseur's licenses, Title 16, ch. 4, part 9.

16-3-401. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 1, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 699, L. 1979; amd. Sec. 21, Ch. 68, L. 1987; amd. Sec. 9, Ch. 314, L. 1991; amd. Sec. 31, Ch. 530, L. 1995; amd. Sec. 3, Ch. 501, L. 2007; amd. Sec. 12, Ch. 591, L. 2023.

16-3-402. Importation of wine — records. (1) Except as provided in 16-3-411, 16-4-313, and Title 16, chapter 4, part 11, all table wine manufactured outside of Montana and shipped into Montana must be consigned to and shipped to a licensed distributor and be unloaded by the distributor into the distributor's warehouse in Montana or subwarehouse in Montana. The distributor shall distribute the table wine from the warehouse or subwarehouse.

(2) The distributor shall keep records at the distributor's licensed premises of all table wine, including the name or kind received, on hand, sold, and distributed. The records may at all times be inspected by the department.

(3) Table wine that has been shipped into Montana in violation of this code must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of intoxicating liquor.

History: En. Sec. 4, I.M. 81, app. Nov. 7, 1978; amd. Sec. 3, Ch. 699, L. 1979; amd. Sec. 32, Ch. 530, L. 1995; amd. Sec. 4, Ch. 501, L. 2007; amd. Sec. 4, Ch. 115, L. 2013; amd. Sec. 5, Ch. 184, L. 2013; amd. Sec. 36, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 36, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Search, seizure, and forfeiture of liquor, 16-6-102 through 16-6-107.

16-3-403. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 5, I.M. 81, app. Nov. 7, 1978; amd. Sec. 4, Ch. 699, L. 1979; amd. Sec. 3, Ch. 629, L. 1987; amd. Sec. 33, Ch. 530, L. 1995.

16-3-404. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 6, I.M. 81, app. Nov. 7, 1978; amd. Sec. 5, Ch. 501, L. 2007.

16-3-405. Carriers' reports of table wine transported. Every railroad, motor carrier, and airline transporting table wine manufactured out of this state from points outside this state and delivering to points within this state shall, if requested by the department, on or before the fifteenth day of each month, make an exact return to the department of revenue of the amount of such table wine so transported and delivered by such railroad, motor carrier, or airline during the previous month, and shall state in such return the name and address of the consignor and consignee, the date of delivery, and the amount delivered. A carrier shall retain for 30 months all pertinent and relevant records necessary for the preparation of this report and any other information the department may require.

History: En. Sec. 7, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 2, Ch. 207, L. 1991.

16-3-406. Financial interest in retailers prohibited. (1) A winery may not advance or loan money to, or furnish money for, or pay for or on behalf of any retailer any license or tax that may be required to be paid by any retailer, and a winery may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer.

(2) A winery is considered to have a financial interest if:

(a) the winery owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises; or

(b) the winery is under any contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other.

History: En. Sec. 8, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 197, Ch. 56, L. 2009; amd. Sec. 37, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 37, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-407 through 16-3-410 reserved.

16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

(a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

(b) sell table wine it produces at wholesale to distributors or liquor store agents;

(c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

(d) provide, without charge, wine it produces for consumption at the winery;

(e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;

(f) obtain no more than 12 special event permits under 16-4-301;

(g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury;

(h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license;

(i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or

(j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m.

(2) (a) Except as provided in 16-4-401(9)(d), a winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery directly to licensed retailers or liquor store agents if the winery:

(i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 9-liter cases a year;

(ii) contracts with a licensed distributor to ship and deliver the winery's wine to the retailer or liquor store agent; or

(iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer or liquor store agent and:

(A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or bonded warehouse;

(B) individual shipments delivered by common carrier are limited to three cases a day for each licensed retailer or liquor store agent; and

(C) the shipments delivered by common carrier do not exceed 4,500 9-liter cases a year.

(b) If a winery uses a common carrier for delivery of the wine to licensed distributors, retailers, and liquor store agents, the shipment must be:

(i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";

(ii) delivered to the premises of a licensed distributor, licensed retailer, or liquor store agent; and

(iii) signed for by the distributor, retailer, or liquor store agent, or by its employee or agent.

(c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report, in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees, retailers, or liquor store agents, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code.

(3) (a) A winery that is located in Montana and licensed to manufacture wine may be licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing wine in addition to distributing and selling wine from the storage depot, subject to this code.

(b) To be licensed for a storage depot, a winery shall pay an annual license fee as provided in 16-4-501 for each storage depot operated by the winery, in addition to all other fees and taxes required to be paid by the winery, and must meet all applicable suitability requirements.

History: En. Sec. 1, Ch. 566, L. 1987; amd. Sec. 34, Ch. 530, L. 1995; amd. Sec. 1, Ch. 163, L. 2001; amd. Sec. 6, Ch. 501, L. 2007; amd. Sec. 6, Ch. 184, L. 2013; amd. Sec. 2, Ch. 29, L. 2019; amd. Sec. 8, Ch. 194, L. 2021; amd. Sec. 1, Ch. 55, L. 2023; amd. Sec. 13, Ch. 591, L. 2023; amd. Sec. 7, Ch. 601, L. 2023; amd. Sec. 6, Ch. 622, L. 2023; amd. Sec. 38, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 38, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-3-412 through 16-3-414 reserved.

16-3-415. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 1, Ch. 314, L. 1991.

16-3-416. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 3, Ch. 314, L. 1991; amd. Sec. 1, Ch. 226, L. 1995; amd. Sec. 2, Ch. 194, L. 1999; amd. Sec. 2, Ch. 118, L. 2023.

16-3-417. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 4, Ch. 314, L. 1991.

16-3-418. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 5, Ch. 314, L. 1991; amd. Sec. 4, Ch. 399, L. 1997; amd. Sec. 2, Ch. 163, L. 2001; amd. Sec. 7, Ch. 501, L. 2007; amd. Sec. 9, Ch. 194, L. 2021.

16-3-419. Repealed. Sec. 49, Ch. 637, L. 2025.

History: En. Sec. 2, Ch. 314, L. 1991; amd. Sec. 2, Ch. 226, L. 1995.

16-3-420. Repealed. Sec. 49, Ch. 637, L. 2025.
History: En. Sec. 6, Ch. 314, L. 1991; amd. Sec. 3, Ch. 118, L. 2023.

16-3-421. Repealed. Sec. 49, Ch. 637, L. 2025.
History: En. Sec. 7, Ch. 314, L. 1991.

Part 5
Beer and Table Wine Distribution

Part Compiler's Comments
Effective Date: Section 51, Ch. 637, L. 2025, provided that this part is effective on passage and approval. Approved May 12, 2025.

16-3-501. Short title — public policy — purpose. (1) This part may be cited as the "Beer and Table Wine Distribution Act".

(2) The public policy of the state of Montana is to maintain a system to provide for, regulate, and control the acquisition, importation, and distribution of beer and table wine.

(3) The legislature finds and declares that the purpose of this part is to assure continued interbrand competition in beer and table wine sales through competing independent distributors and to assure breweries and wineries the ability to protect the reputations of their products through quality control arrangements.
History: En. Sec. 1, Ch. 637, L. 2025.

16-3-502. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Agreement of distributorship" means a contract, agreement, commercial relationship, license, or other arrangement for a definite or an indefinite period of time between a supplier and a distributor that provides for the sale of beer, table wine, or sacramental wine by the supplier to the distributor.

(2) "Distribute" means to:

(a) deliver beer, table wine, or sacramental wine:

(i) to a retailer's premises licensed to sell beer, table wine, or sacramental wine;

(ii) to a noncontiguous storage area as allowed in 16-3-311(6);

(iii) pursuant to an approved alternative delivery arrangement in 16-3-516(7); and

(iv) to an alternate alcoholic beverage storage facility as allowed in 16-4-213(8); and

(b) to deliver table wine to an agency liquor store.

(3) "Good cause" means failure by a distributor to comply with reasonable business requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of distributorship if the requirements are imposed on other similarly situated distributors either by the terms of their agreements or in the manner of their enforcement by the supplier.

(4) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and includes individual officers, directors, or other persons in active control of the activities of the entity.

(5) "Supplier" means a brewery, winery, or an importer of beer, table wine, or sacramental wine that enters into or is a party to an agreement of distributorship with a distributor.
History: En. Sec. 2, Ch. 637, L. 2025.

16-3-503. Distributor's license — fee. (1) A person desiring to sell and distribute beer, table wine, or sacramental wine at wholesale to licensed retailers or table wine to agency liquor stores under the provisions of this code shall apply to the department for a license to do so and shall submit with the application the initial license fee of $400. The department may issue licenses to qualified applicants in accordance with the provisions of this code.

(2) A distributor's license expires at midnight on June 30 following the date of its issuance.

(3) A license fee may not be imposed on distributors by a municipality or any other political subdivision of the state.

(4) The license must be prominently displayed in the distributor's licensed premises at all times.

(5) (a) An applicant must have:

(i) a fixed place of business;

(ii) sufficient capital; and

(iii) the facilities, storehouse, and receiving house or warehouse for the receiving, storage, handling, and moving of beer, table wine, or sacramental wine in large and jobbing quantities for distribution and sale in original packages to other licensed distributors or licensed retailers or table wine to agency liquor stores.

(b) A distributor is entitled to only one license, which must be issued for the distributor's licensed premises in Montana. A license may be issued for each subwarehouse operated by the distributor. The license must be prominently displayed at the subwarehouse at all times.

History: En. Sec. 3, Ch. 637, L. 2025.

16-3-504. Distributor financial interest in retailers prohibited. A distributor may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A distributor may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A distributor is considered to have a financial interest within the meaning of this section if:

(1) the distributor owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises;

(2) the distributor is under a contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other; or

(3) a retailer holds an interest, as a stockholder or otherwise, in the business of the distributor.

History: En. Sec. 4, Ch. 637, L. 2025.

16-3-505. Beer agreement of distributorship provisions. (1) A brewery or beer importer and distributor must have a written agreement of distributorship that provides for purchase of the brewery or beer importer's products from the brewery or beer importer by the distributor.

(2) A beer agreement of distributorship must provide:

(a) that the brewer or beer importer or any officer, agent, or representative of any brewer or beer importer and the distributor involved shall mutually determine the size or extent of the area in which the distributor may sell or distribute the products of the brewer or beer importer to the retail licensees. The territory must be the territory agreed upon between the distributor and brewer or the distributor and beer importer and may not be changed without the mutual consent of both the distributor and brewer or the distributor and beer importer.

(b) the agreed-upon brands of the brewer or beer importer to be sold by the distributor;

(c) that the brewer or beer importer recognizes that the distributor is free to manage the distributor's business in the manner that the distributor considers best and that this prerogative vests in the distributor the exclusive right to establish selling prices, to select the brands that the distributor wishes to handle, and to determine the effort and resources that the distributor will exert to develop and promote the sale of the brewer's or beer importer's products handled by the distributor;

(d) a procedure for the review of alleged distributor deficiencies asserted by the brewer or beer importer to constitute good cause as provided in 16-3-502, including the submission in writing to the distributor by the brewer or beer importer of the deficiencies, if the deficiencies are susceptible of correction and if the distributor desires to correct the deficiencies, and that a reasonable period of time must be given the distributor for rectification of the deficiencies prior to any notice of intent to terminate;

(e) a termination clause providing that the brewer or beer importer shall deliver, in writing, to the distributor a 60-day notice of intent to terminate the agreement, contract, or franchise;

(f) that all agreements between a brewer and a distributor are interpreted and governed by the laws of Montana and that those laws must be liberally construed to effectuate the remedial purpose of the protections of this part;

(g) that in any dispute resulting in litigation between a brewer or a beer importer and a distributor, the litigation must occur in a Montana court, either federal or state, unless that forum would create an unreasonable burden on any party, as determined by the court in which the litigation is commenced; and

(h) that all agreements between a brewer or a beer importer and a distributor must recognize the constitutional right to a jury trial as set forth in Article II, section 26, of the Montana constitution.

History: En. Sec. 5, Ch. 637, L. 2025.

16-3-506. Table wine agreement of distributorship provisions. (1) A winery or wine importer and distributor must have a written agreement of distributorship that provides for purchase of the winery or wine importer's products from the winery or wine importer by the distributor.

(2) A table wine agreement of distributorship must provide that:

(a) a winery or wine importer shall notify a distributor in writing at least 60 days prior to termination of an agreement of distributorship unless a termination without notice is permitted as provided in 16-3-507. The written notice must state the reasons for termination. Notice of termination is void if within 60 days of the notice, the distributor rectifies the deficiency stated as the reason for termination and if the deficiency was not stated as reason for termination in a notice previously voided under the provisions of this subsection (2)(a).

(b) a winery or wine importer may not unreasonably withhold or delay approval of a sale or transfer of the ownership, management, or control of a distributorship. However, a distributor shall give a winery or wine importer no less than 60 days' prior written notice of any material change in ownership, management, or control.

(3) If a winery or wine importer terminates an agreement of distributorship under the provisions of subsection (2)(a), the distributor subject to the termination is entitled to compensation for the laid-in cost of inventory. In the event of any termination of the agreement by the winery or wine importer other than termination for good cause or for any reason set forth in 16-3-507(3), the distributor is entitled to compensation for the laid-in cost of inventory and to liquidated damages based on the sales of the brand or brands involved, as may be provided in the agreement. If the winery or wine importer and the distributor are unable to agree on the amount of liquidated damages, the amount of liquidated damages must be determined by an arbitrator appointed under subsection (4).

(4) If undertaken in good faith by a winery or wine importer, a winery or wine importer may terminate an agreement of distributorship for a legitimate business reason not within the definition of good cause if an arbitrator appointed by the department finds, after hearing the winery or wine importer and the distributor, that the termination is in the best interest of the brands concerned. Arbitration under this section must be conducted under the provisions of Title 27, chapter 5.

(5) All agreements of distributorship are interpreted and governed by the laws of Montana.

(6) In any dispute resulting in litigation between a winery or wine importer and a distributor, the litigation must occur in a Montana court, federal or state, unless that forum would create an unreasonable burden on any party, as determined by the court in which the litigation is commenced.

(7) Agreements between a winery or wine importer and a distributor must recognize the constitutional right to a jury trial as set forth in Article II, section 26, of the Montana constitution.

(8) A provision in an agreement of distributorship that is inconsistent with the requirements of this section is void.

History: En. Sec. 6, Ch. 637, L. 2025.

16-3-507. Winery and wine importer agreement of distributorship provisions. (1) An agreement of distributorship for a winery or wine importer's product must provide that a distributor shall:

(a) maintain the financial and competitive capability to efficiently and effectively distribute a winery or wine importer's products;

(b) maintain the quality and integrity of a winery or wine importer's products in a manner set forth by the winery or wine importer;

(c) exert the distributor's best efforts to sell the winery or wine importer's brands;

(d) merchandise the products in retail stores and agency liquor stores as agreed between the distributor and the winery or wine importer; and

(e) give a winery or wine importer not less than 60 days' written notice of the distributor's intent to terminate an agreement of distributorship.

(2) As provided in 16-3-506, a winery or wine importer may terminate an agreement of distributorship based on a deficiency or other good cause by giving 60 days' prior written notice to the distributor.

(3) A winery or wine importer may terminate an agreement of distributorship immediately and without notice if the reason for the termination is insolvency, assignment for the benefit of creditors, bankruptcy, or revocation or suspension for more than 14 days of a license to operate that is required by the state or the federal government.

History: En. Sec. 7, Ch. 637, L. 2025.

16-3-508. Table wine distributor. (1) A winery or wine importer may appoint one or more distributors to distribute its table wines in a specified territory. If the winery or wine importer appoints two or more distributors to sell its table wines in the same or overlapping territories, the winery or wine importer shall offer the same prices, delivery, terms, and promotional support to each distributor.

(2) A winery or wine importer may not appoint more than one distributor to distribute its hard cider in a specified territory.

(3) For the purposes of this section, "table wine" has the same meaning as provided in 16-1-106 but does not include hard cider.

History: En. Sec. 8, Ch. 637, L. 2025.

16-3-509. Distributors' service obligations for beer — applicability. (1) A distributor appointed to distribute a brand of beer within a territory specified by agreement pursuant to 16-3-505 shall call on and offer that brand to at least 75% of the retailers within that territory at least every 3 weeks. However, if the brand of beer for which the distributor is appointed is a product of a brewer or beer importer whose products are not generally available, the distributor shall, at least every 3 weeks, call on and offer that brand to as many retailers within that territory as is reasonably possible given the amount of that brand that is available to the distributor.

(2) If a retailer's account with a distributor is current as required under 16-3-243, the distributor may not refuse to sell the retailer any generally available brand of beer for which the distributor has been appointed for the territory in which the retailer is located. The distributor shall offer to deliver the beer to the retailer at least every 3 weeks.

(3) For the purposes of this section, a brewer or beer importer's products are not generally available if:

(a) all of the brands of a brewer or beer importer shipped to a distributor during the most recent calendar quarter total less than 600 barrels;

(b) all of the brands of a brewer or beer importer shipped into the state total less than 1,200 barrels in each of the 2 consecutive preceding calendar quarters; and

(c) all of the brands produced by the brewer at all of its facilities total less than 150,000 barrels per year.

(4) This section applies to all beer distribution agreements entered into, assigned, or amended after July 1, 1986. It does not apply to a distribution agreement for a named brand entered into before July 1, 1986, but does not prohibit a brewer who is a party to an agreement from requiring the appointed distributor to fulfill similar service obligations in the territory.

History: En. Sec. 9, Ch. 637, L. 2025.

16-3-510. Winery or wine importer prohibitions — illegal acts by brewers or beer importers. (1) A winery or wine importer or an officer, agent or representative of a winery or wine importer may not:

(a) coerce, induce, or attempt to coerce or induce a distributor to engage in an illegal act or course of conduct;

(b) require a distributor to accept delivery of a product or other item or commodity that was not ordered by the distributor; or

(c) fix or maintain the price at which a distributor shall resell table wine.

(2) A brewer or beer importer or an officer, agent, or representative of a brewer or beer importer may not:

(a) coerce, attempt to coerce, or persuade any person licensed to sell beer as a distributor to enter into any agreement or to take any action that would violate or tend to violate any of the laws of this state or any rules promulgated by the department;

(b) sell its products in the state without a written contract that conforms to the provisions of this part with each appointed licensed distributor;

(c) designate or allow more than one distributor to sell or distribute a specific brand of the brewer's or beer importer's products to retail licensees in the same area, provided that nothing in this part prohibits the brewer or beer importer from designating more than one distributor to sell or distribute different brands of the same manufacturer to retail licensees in the same area;

(d) fix or maintain the price at which a distributor resells the brewer's or beer importer's products. Without limitation, it is a violation of this section if:

(i) after a distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the distributor for those products within 60 days;

(ii) after a distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the distributor in an amount proportionately larger than the amount that it raised the distributor's prices initially when compared to the increase in the resale price that it recommended to the distributor; or

(iii) the brewer or beer importer links or ties its participation in promotional discounts to the distributor's compliance with any recommended resale price.

(e) cancel, terminate, discontinue, or fail to renew, except for just cause and in accordance with the current terms and standards established by the brewer or beer importer then equally applicable to all distributors, any agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications among distributors. If a brewer or beer importer cancels or terminates a distributor's franchise, the brewer or beer importer has the burden of proving that the classification was reasonable and not arbitrary. The provisions of this part must be a part of any franchise, contract, agreement, or understanding, whether written or oral, between any distributor of beer licensed to do business in this state and any manufacturer or beer importer doing business with the licensed distributor just as though the provisions had been specifically agreed upon between the distributor and the manufacturer or beer importer. A distributor of beer licensed to conduct business in the state may not waive any of the protections or agree to any provision contrary to this part by any conduct, including but not limited to the signing of any contract or agreement with terms contrary to those provisions.

(3) (a) Just cause as used in subsection (2)(e) means that the distributor failed to comply with the reasonable requirements placed on the distributor by the brewer or beer importer as a part of any written franchise, contract, or agreement between the parties.

(b) The sale or purchase or other restructuring of the brewer or beer importer by a successor in the manufacturing tier of the beer industry does not constitute just cause as that term is used in subsection (2)(e).

(c) For the purposes of this subsection (3), a successor means a person or entity that replaces a brewer or beer importer with regard to the right to manufacture, sell, distribute, or import a brand or brands of beer regardless of the character or form of the succession. A successor is obligated to all of the terms and conditions of any franchise, contract, agreement, or understanding, whether written or oral, in effect on the date of succession. A successor has the right to contractually require its distributor to comply with operational standards of performance if the standards are uniformly established for all of the successor's distributors and conform to the requirements of this section.

History: En. Sec. 10, Ch. 637, L. 2025.

16-3-511. Transfer of distributor's interest in business. A distributor may sell or transfer the business or an interest in the business to any person or to one or more members of the distributor's family or heirs or legatees, whether the distributor operates as an individual, a partnership, or corporation. However, the consent of the brewer, beer importer, winery, or wine importer in writing is required for the transferee to continue as a distributor of the brewer,

beer importer, winery, or wine importer. The consent must consider the personal, financial, and managerial responsibilities and capabilities of the transferee, and the consent may not unreasonably be withheld.

History: En. Sec. 11, Ch. 637, L. 2025.

16-3-512. Contractual or franchise relationship — existence by actions. The doing or accomplishing of any of the following acts constitutes prima facie evidence of a contractual or franchise relationship between a licensed distributor and a brewer, beer importer, winery, or wine importer within the intention of this part:

(1) the shipment, preparation for shipment, or acceptance of any order by any brewer, beer importer, winery, or wine importer or its agent for any beer, table wine, or sacramental wine to a licensed distributor within this state; or

(2) the payment by any licensed distributor within this state or the acceptance of payment by any brewer, beer importer, winery, or wine importer or its agent for the shipment of an order of beer, table wine, or sacramental wine intended for sale within this state.

History: En. Sec. 12, Ch. 637, L. 2025.

16-3-513. Distributor agreements filed with department. Within 60 days after entering into a new agreement, an exact copy of all agreements, contracts, or franchises between a brewer, beer importer, winery, or wine importer and a distributor must be filed by the distributor with the department as a public document and must be available to any of the parties to a dispute. The department, on the instigation of an action in a court of record, shall file an exact certified copy of the agreement with the court for the court's consideration in determining any matter before it. Any contracts, agreements, or franchises not on record with the department may not be considered by a court as having any force or effect. The distributor shall notify the brewer, beer importer, winery, or wine importer of the filing of the agreement with the department.

History: En. Sec. 13, Ch. 637, L. 2025.

16-3-514. Beer required to be shipped to distributor. Except as provided in 16-3-214 and 16-4-401(9)(e), all beer that is to be distributed in Montana, whether manufactured outside of or within the state of Montana, must be consigned to and shipped, either directly or via a licensed storage depot, to a licensed distributor and unloaded into the distributor's warehouse in Montana or subwarehouse in Montana. A brewer or beer importer shall maintain records of all beer, including the name or kind received, on hand, and sold. The records may at any time be inspected by a representative of the department. The distributor shall distribute the beer from the warehouse or subwarehouse and shall keep records at the distributor's licensed premises of all beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a representative of the department at any time.

History: En. Sec. 14, Ch. 637, L. 2025.

16-3-515. Sales by distributor. (1) A distributor may sell and deliver beer purchased or acquired by the distributor to another distributor, retailer, or common carrier licensed under this code.

(2) A distributor may sell and deliver table wine and sacramental wine purchased or acquired by the distributor to another distributor, retailer, or common carrier licensed under this code and table wine to an agency liquor store.

History: En. Sec. 15, Ch. 637, L. 2025.

16-3-516. Dock sales. (1) Except as provided in subsections (2) through (4), beer may not be delivered to a licensed retailer at any location other than the retailer's licensed premises, noncontiguous storage areas under 16-3-311(6), and resort alternate storage facilities under 16-4-213(8).

(2) An all-beverages licensee may personally or through an employee obtain from any distributor's warehouse any quantity of beer as the all-beverages licensee and distributor may agree to buy and sell.

(3) Retailers other than an all-beverages licensee may personally or through an employee obtain from the distributor's warehouse any quantity of beer that the retailer and distributor may agree to buy and sell only within the territory of the distributor in which the retailer is located.

(4) Except as provided in subsections (5) through (6), table wine and sacramental wine may not be delivered to a licensed retailer or liquor store agent at any location other than the retailer's licensed premises, an agency liquor store, noncontiguous storage areas under 16-3-311(6), or resort alternate storage facilities under 16-4-213(8).

(5) An all-beverages licensee may personally or through an employee obtain from any distributor's warehouse any quantity of table wine that the all-beverages licensee and distributor may agree to buy and sell.

(6) Liquor store agents or retailers other than all-beverages licensees may personally or through an employee obtain from the distributor's warehouse any quantity of table wine as the agent or retailer and distributor may agree to buy and sell only within the territory of the distributor in which the agent's liquor store or retailer is located.

(7) When a distributor's trucks and equipment are incapable of delivering beer, table wine, or sacramental wine to a retail licensee's premises due to the unique physical location of the retail licensee's premises, examples of which are premises located on an island or atop a mountain, the distributor and retail licensee may seek prior department approval for an alternative delivery arrangement on a form provided by the department. If the department approves the alternative delivery arrangement request, the department shall provide the distributor and the retail licensee a written summary of the conditions of the approved delivery arrangement. Failure to comply with the approved alternative delivery arrangement may subject the distributor or retail licensee to administrative action.

History: En. Sec. 16, Ch. 637, L. 2025.

16-3-517. Sales to public by distributor unlawful. A distributor may not give, sell, deliver, or distribute any beer, table wine, or sacramental wine purchased or acquired by the distributor to the public.

History: En. Sec. 17, Ch. 637, L. 2025.

16-3-518. Consumption of beer, table wine, or sacramental wine on distributor's premises unlawful. A distributor may not sell, serve, or give away any beer, table wine, or sacramental wine to be consumed on the distributor's premises.

History: En. Sec. 18, Ch. 637, L. 2025.

16-3-519. Quarterly report of distributor and retailer. (1) A licensed distributor shall, on or before the 15th day of each month following the end of each quarter, make an exact return to the department of the amount of beer, table wine, and sacramental wine purchased or acquired by the distributor during the previous quarter, the amount of beer, table wine, and sacramental wine sold and delivered by the distributor during the previous quarter, and the amount of inventory on hand in the manner and form prescribed by the department. The department has the right at any time to make an examination of the distributor's books and premises and otherwise check the accuracy of the return or check the alcoholic content of beer, table wine, and sacramental wine that the distributor may have on hand.

(2) A wine retailer licensed to do business in the state shall, on or before the 15th day of each month following the end of each quarter, in the manner and form prescribed by the department, make a return to the department of the amount of wine purchased directly from any out-of-state winery in the previous quarter.

History: En. Sec. 19, Ch. 637, L. 2025.

16-3-520. Injunction to prevent franchise cancellation. (1) A person injured by a violation of this part may bring a civil action in a court of competent jurisdiction to enjoin further violations in addition to other remedies provided by law.

(2) A court of competent jurisdiction may enjoin the cancellation or termination of a franchise or agreement between a distributor and a brewer, between a distributor and a beer importer, between a distributor and a winery, or between a distributor and a wine importer at the instance of a distributor that is or would be adversely affected by the cancellation or termination. In granting an injunction, the court shall provide that the brewer, beer importer, winery, or wine importer may not supply the customers or territory of the distributor who is servicing the territory or customers through other distributors or means while the injunction is in effect.

History: En. Sec. 20, Ch. 637, L. 2025.

CHAPTER 4
LICENSE ADMINISTRATION

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Appropriate alcoholic beverage license for certain gambling activities, 23-5-119.
Discrimination in licensing, 49-3-204.

Part 1
Beer and Wine Licenses

Part Cross-References

Security interest in alcoholic beverage license — definitions, 16-4-801.
Appropriate alcoholic beverage license for certain gambling activities, 23-5-119.

16-4-101. Applications for sale, import, or manufacture of beer — qualifications of applicant. (1) Except as provided in subsection (4), any person desiring to manufacture, distribute, import, or sell beer under the provisions of this code shall first apply to the department for a license to do so and pay with the application fee prescribed. The department shall require of the applicant satisfactory evidence that the applicant is suitable for carrying on the operations of a license.

(2) On being satisfied, from the application or otherwise, that the applicant is qualified, the department shall issue a license to the person, and the license must at all times be prominently displayed at the licensed premises.

(3) If the department finds that the applicant is not qualified, a license may not be granted and the license fee must be returned.

(4) A brewery that is not located in the state or a beer importer that holds the appropriate license from the United States department of the treasury that desires to distribute its beer within this state through licensed distributors shall apply to the department for registration on forms to be prepared and furnished by the department.

(5) A brewery or beer importer may not ship beer into this state until the registration is granted by the department. The registration may be canceled or suspended by the department upon a finding after notice and hearing that the registrant has not complied with the terms of its registration.

History: En. Sec. 6, Ch. 106, L. 1933; re-en. Sec. 2815.15, R.C.M. 1935; Sec. 4-310, R.C.M. 1947; amd. and redes. 4-4-101 by Sec. 50, Ch. 387, L. 1975; R.C.M. 1947, 4-4-101; amd. Sec. 19, Ch. 19, L. 1985; amd. Sec. 1, Ch. 97, L. 2023; amd. Sec. 7, Ch. 749, L. 2023; amd. Sec. 39, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 39, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-102. Right of breweries to maintain and operate storage depots — annual licenses. A brewery that is located in Montana and licensed to manufacture beer, upon payment to the department of an annual license fee as provided in 16-4-501 for each storage depot operated by the brewery, in addition to all other fees and taxes required to be paid by the brewery, may own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing beer and for distributing and selling beer, subject to this code.

History: En. Sec. 6, Ch. 166, L. 1951; Sec. 4-317.1, R.C.M. 1947; amd. and redes. 4-4-102 by Sec. 54, Ch. 387, L. 1975; R.C.M. 1947, 4-4-102; amd. Sec. 3, Ch. 178, L. 1983; amd. Sec. 2, Ch. 55, L. 2023.

16-4-103. Repealed. Sec. 5, Ch. 138, L. 2023; Sec. 8, Ch. 138, L. 2023.

History: En. Sec. 14, Ch. 106, L. 1933; amd. Sec. 5, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.23, R.C.M. 1935; amd. Sec. 1, Ch. 246, L. 1947; amd. Sec. 5, Ch. 166, L. 1951; amd. Sec. 1, Ch. 222, L. 1965; Sec. 4-318, R.C.M. 1947; amd. and redes. 4-4-103 by Sec. 56, Ch. 387, L. 1975; R.C.M. 1947, 4-4-103(part); amd. Sec. 1, Ch. 359, L. 1981; amd. Sec. 6, Ch. 61, L. 1987; amd. Sec. 1, Ch. 143, L. 2005.

16-4-104. Beer retailer's license — application and issuance — check of alcoholic content by department. (1) Any person desiring to possess and have beer for the purpose of retail sale under the provisions of this code shall first apply to the department for a license to do so and submit with the application the license fee.

(2) On being satisfied, from the application or otherwise, that the applicant is qualified, the department shall issue a license to the person. The license must at all times be prominently displayed at the licensed premises.

(3) If the department finds that the applicant is not qualified, a license may not be granted and the license fee must be returned by the department.

(4) The department may, at any time, examine the books of account and the premises of any licensed retailer and otherwise check the retailer's methods of conducting business and the alcoholic content of the beer kept for sale.

(5) A person may not sell beer at retail without a valid license issued under this code.

History: En. Sec. 28, Ch. 106, L. 1933; amd. Sec. 9, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.30, R.C.M. 1935; Sec. 4-327, R.C.M. 1947; amd. and redes. 4-4-104 by Sec. 62, Ch. 387, L. 1975; R.C.M. 1947, 4-4-104; amd. Sec. 198, Ch. 56, L. 2009; amd. Sec. 3, Ch. 97, L. 2023.

Cross-References

Keg registration, 16-3-321.

16-4-105. Limit on retail beer and wine licenses — limitation on use of license — exceptions — competitive bidding — rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer and wine licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer and wine license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer and wine license for every 500 inhabitants;

(iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities, four retail beer and wine licenses for the first 2,000 inhabitants, two additional retail beer and wine licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer and wine license for each additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail beer and wine licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(i) the county boundary within which the incorporated city or incorporated town is located; or

(ii) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(d) Retail beer and wine licenses of issue on March 7, 1947, and retail beer and wine licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer and wine license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has

occupied for the last 5 years. A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same location requirement.

(f) The number of retail beer and wine licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer and wine license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (8) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation may not be transferred to another location within the city quota area any sooner than 5 years from the date of the annexation.

(4) When the department determines that a quota area is eligible for a new retail beer and wine license under subsection (1) or (2), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(5) When more than one new retail beer and wine license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(6) (a) A person holding a retail beer and wine license may sell beer and wine for consumption on or off the premises.

(b) A person holding a retail beer and wine license may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(c) A person licensed under this subsection (6) may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection (6)(c) authorizes a licensee to consume, sell, serve, or give away liquor.

(7) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a new license fee equal to the annual fee as provided in 16-4-501 and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(10) The department may adopt rules to implement this section.

History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(1), (3), (4); amd. Sec. 12, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 25, L. 1981; amd. Sec. 1, Ch. 86, L. 1981; amd. Sec. 2, Ch. 519, L. 1981; amd. Sec. 1, Ch. 50, L. 1983; amd. Sec. 2, Ch. 595, L. 1983; amd. Sec. 3, Ch. 731, L. 1985; amd. Sec. 2, Ch. 228, L. 1995; amd. Sec. 35, Ch. 530, L. 1995; amd. Sec. 6, Ch. 465, L. 1997; amd. Sec. 1, Ch. 528, L. 1997; amd. Sec. 23, Ch. 7, L. 2001; amd. Sec. 1, Ch. 267, L. 2005; amd. Sec. 1, Ch. 263, L. 2017; amd. Secs. 1, 2, Ch. 5, Sp. L. November 2017; amd. Sec. 2, Ch. 342, L. 2019; amd. Sec. 10, Ch. 194, L. 2021; amd. Sec. 1, Ch. 451, L. 2021; amd. Sec. 1, Ch. 56, L. 2023; amd. Sec. 1, Ch. 60, L. 2023; amd. Sec. 1, Ch. 93, L. 2023; amd. Sec. 8, Ch. 601, L. 2023.

16-4-106. Beer and table wine license transfers. A transfer of any brewer's, distributor's, beer retailer's, or table wine retailer's license may be made on application to the department with the consent of the department, provided that the transferee qualifies under this code.

History: En. Sec. 45, Ch. 106, L. 1933; amd. Sec. 15, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.44, R.C.M. 1935; amd. Sec. 2, Ch. 246, L. 1947; amd. Sec. 1, Ch. 122, L. 1963; Sec. 4-341, R.C.M. 1947; amd. and redes. 4-4-401 by Sec. 68, Ch. 387, L. 1975; amd. Sec. 10, Ch. 496, L. 1977; R.C.M. 1947, 4-4-401(1)(b); amd. Sec. 13, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 40, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 40, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-107. Winery license — winery and importer registration. (1) (a) Wine, other than for personal consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may be shipped directly by a winery with a direct shipment endorsement as provided in 16-4-1101 to an individual in Montana who is at least 21 years of age. An application for a winery license must be accompanied by a fee of $400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual fee as provided in 16-4-501. Winery licensees located in Montana must hold the appropriate basic permit required by the United States department of the treasury and be qualified for a license in accordance with the provisions of 16-4-401(2). Winery licensees located in another state must hold the appropriate basic permit required by the United States department of the treasury and the appropriate license to manufacture wine from the state in which the winery is located and shall provide all other information required by the department.

(b) A winery located in Montana that is licensed to do business in the state shall, each quarter and in the manner and form prescribed by the department, report to the department the amount of wine manufactured or imported by the winery in the previous quarter and the winery's inventory. The department may at any time examine a winery's books.

(2) (a) A winery that is not located in the state or an importer of table wines that holds the appropriate license from the United States department of the treasury and that desires to distribute its table wines within this state through licensed distributors shall apply to the department for registration on forms to be prepared and furnished by the department.

(b) Each winery shall furnish the department with a copy of each container label currently used by the winery on its products imported into Montana. The department shall require the winery or importer to agree to furnish monthly and other reports concerning quantities and prices of table wine that it ships into the state, names and addresses of consignees, and any other information that the department may determine to be necessary to ensure that importation and distribution of table wines within this state conform to the requirements of this code.

(c) A winery or importer of table wines may not ship table wines into this state until the registration is granted by the department. The registration may be canceled or suspended by the department upon a finding after notice and hearing that the registrant has not complied with the terms of its registration.

(3) A winery that is not located in Montana, that holds the appropriate license from the United States department of the treasury, that is not already registered with the department, and that desires to sell and ship table wine directly to individuals in Montana who are at least 21 years of age shall apply to the department for registration pursuant to subsection (2) and for a direct shipment endorsement pursuant to 16-4-1101.

History: En. Sec. 3, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 70, Ch. 575, L. 1981; amd. Sec. 3, Ch. 163, L. 2001; amd. Sec. 8, Ch. 501, L. 2007; amd. Sec. 7, Ch. 184, L. 2013; amd. Sec. 8, Ch. 749, L. 2023; amd. Sec. 41, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 41, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-108. Repealed. Sec. 5, Ch. 138, L. 2023; Sec. 8, Ch. 138, L. 2023.

History: En. Sec. 4, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 3, Ch. 699, L. 1979; amd. Sec. 2, Ch. 359, L. 1981; amd. Sec. 7, Ch. 61, L. 1987; amd. Sec. 23, Ch. 68, L. 1987; amd. Sec. 199, Ch. 56, L. 2009; amd. Sec. 5, Ch. 115, L. 2013.

16-4-109. Golf course beer and wine license. (1) On application, the department shall issue a retail beer and wine license, to be known as a golf course beer and wine license, for use at a golf course. The application must be made by the person or entity that owns and operates the golf course.

(2) The department shall issue a golf course beer and wine license to a qualified applicant regardless of the number of beer and wine licenses already issued within the beer and wine license quota area in which the golf course is situated. A license issued pursuant to this section is nontransferable.

(3) If the owner of the golf course is not the state, a unit of the university system, or a local government, the owner must be approved by the department as provided in this chapter for the issuance of retail beer and wine licenses and:

(a) the golf course must consist of at least 9 holes and 2,500 lineal yards;

(b) the golf course must be either within the limits of an incorporated city or town or within 5 miles of the limits of an incorporated city or town;

(c) the applicant for a license under this section may not have held a retail beer and wine or all-beverages license within 12 months of the date of application; and

(d) the applicant, except for a golf course under a governing body incorporated under section 501(c)(3) of the Internal Revenue Code, shall pay an initial application fee as provided in 16-4-501.

(4) If the owner of the golf course is the state, a unit of the university system, or a local government, the department may approve the application if an owner-designated individual who provides general oversight of the alcoholic beverage operations meets the requirements of 16-4-401(2)(a)(i) through (2)(a)(iii).

(5) (a) Except as provided in subsection (5)(c), a golf course beer and wine license and all retail beer and wine sales under the license are subject to all statutes and rules governing a retail beer and wine license.

(b) If the owner of the golf course is not the state, a unit of the university system, or a local government:

(i) retail beer and wine sales may be made only during the time of the year that the golf course is open for business, and sales on days during that time must stop by 1 hour after sunset;

(ii) the seating capacity of the premises where the beer and wine are sold may not exceed 75 persons; and

(iii) gaming or gambling is not authorized under the license issued under this section.

(c) If the owner of a golf course is the state, a unit of the university system, or a local government, the owner may lease the beer and wine license for use at the golf course to an individual or entity approved by the department.

History: En. Sec. 1, Ch. 537, L. 1983; amd. Sec. 1, Ch. 117, L. 1985; amd. Sec. 1, Ch. 458, L. 2001; amd. Sec. 1, Ch. 605, L. 2003; amd. Sec. 2, Ch. 60, L. 2023.

16-4-110. Beer and wine license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club. (1) On application and qualification, the department shall issue a license to sell beer and wine for consumption on the premises to:

(a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-105.

(3) On application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing licenses to sell beer and wine at retail for on-premises consumption.

(5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

History: En. Sec. 1, Ch. 731, L. 1985; amd. Sec. 200, Ch. 56, L. 2009; amd. Sec. 11, Ch. 194, L. 2021; amd. Sec. 3, Ch. 60, L. 2023.

16-4-111. Catering endorsement for beer and wine licensees. (1) (a) A person who is licensed to sell beer and wine at retail for on-premises consumption may, on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer and wine to persons attending a special event on premises not otherwise licensed for the sale of beer and wine for on-premises consumption. The beer or wine must be consumed on the premises where the event is held.

(b) A person who is licensed pursuant to 16-4-420 to sell beer and wine at retail for on-premises consumption may, on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer and wine to persons attending a special event on premises not otherwise licensed for the sale of beer and wine, along with food equal in cost to 65% of the total gross revenue from the catering contract, for on-premises consumption. The beer or wine must be consumed on the premises where the event is held.

(c) A person licensed under 16-4-105 to sell beer and wine at retail for on-premises consumption at a guest ranch may, on the approval of the department, be granted a guest ranch catering endorsement to the license to allow the catering and sale of beer and wine to guests of the guest ranch for events at locations on the guest ranch other than the licensed premises. These events do not need to be special events. The beer and wine must be consumed where the event is held.

(2) An application for a catering endorsement and an annual fee of $200 must be submitted to the department for its approval.

(3) With the exception of a guest ranch catering endorsement, a licensee who holds a catering endorsement may not cater an event in which the licensee or the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's licensed premises measured in a straight line from the nearest entrance of the licensed premises to the nearest boundary of the catered event.

(4) Except as provided in subsection (8), the storage of alcoholic beverages may occur on the premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents access by anyone other than the licensee or the licensee's employees.

(5) With the exception of a guest ranch catering endorsement, the licensee shall notify the local law enforcement agency that has jurisdiction over the premises that the catered event is to be held. A local government may charge a fee of $35.

(6) The sale of beer and wine pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(7) The sale of beer and wine pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval for the on-premises sale of beer and wine on premises where the event is to be held.

(8) A licensee may sell and serve beer and wine in the grandstands and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises when the catered event is held on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112. If the licensee has a written agreement with the state of Montana, a political subdivision of the state, or a Montana university to sell and serve beer and wine for multiple catered events at the premises, the licensee may store beer and wine to be used for the catered events on the premises of the fairground, public sports arena, or Montana university for the length of the written agreement if the beer and wine can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's employees. Each catered event held at the premises is subject to the requirement in subsection (5) and must be individually reported to the department.

(9) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

History: **En. Sec. 1, Ch. 599, L. 1993; amd. Sec. 7, Ch. 465, L. 1997; amd. Sec. 1, Ch. 324, L. 1999; amd. Sec. 24, Ch. 7, L. 2001; amd. Sec. 2, Ch. 369, L. 2003; amd. Sec. 3, Ch. 395, L. 2021; amd. Sec. 4, Ch. 60, L. 2023; amd. Sec. 2, Ch. 585, L. 2023; amd. Sec. 12, Ch. 53, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 12, Ch. 53, L. 2025. Amendment effective October 1, 2025.

16-4-112. Catering endorsement — university or college sporting events — revenue sharing. (1) A Montana university may contract with a licensed entity with a catering endorsement under 16-4-111 to serve beer and wine or under 16-4-204 to serve liquor, beer, and wine at a sporting event held by the Montana university.

(2) The licensee may contract with the Montana university relating to the revenue sharing as permitted in 16-4-111 and 16-4-204.

(3) For the purposes of this section, the term "Montana university" means:

(a) a unit of the Montana university system as defined in 20-25-201; or

(b) any other postsecondary institution in the state.

History: **En. Sec. 1, Ch. 395, L. 2021.**

16-4-113. Repealed. Sec. 49, Ch. 637, L. 2025.

History: **En. Sec. 1, Ch. 138, L. 2023.**

16-4-114 reserved.

16-4-115. Beer and wine licenses for off-premises consumption — third-party delivery — own delivery for grocery stores. (1) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to individuals or entities qualified for licensure under 16-4-401. If the premises proposed for licensing are operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy. The number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

(2) On receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in 16-4-501, the department shall request that the department of justice make a background investigation of all matters relating to the application.

(3) Based on the results of the investigation or in exercising its sound discretion as provided in subsection (1), the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are met and complied with.

(4) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207.

(5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging.

(6) An off-premises retail licensee may use a third-party delivery licensee to deliver beer and table wine as provided in 16-4-307.

(7) (a) A retail licensee who qualifies for licensure under 16-4-401 as an off-premises retail licensee that operates in conjunction with a grocery store or drugstore licensed as a pharmacy with a license to sell beer and table wine in original packaging may apply to the department and pay a fee for an endorsement to deliver beer and table wine in original packaging. Deliveries under this subsection (7) may be made only to a residential or commercial address. An off-premises retail licensee under this section may only deliver beer or table wine through drivers who:

(i) are an employee of the licensee or an independent contractor of the retail licensee;

(ii) are at least 21 years of age;

(iii) have a valid driver's license for delivery through a motor vehicle or a valid driver's license or a state-issued identification for delivery through bicycle or other means not a motor vehicle;

(iv) have not been convicted of a felony, unless the driver's rights have been restored, or a driving under the influence offense in the past 7 years; and

(v) have completed a responsible server and sales training program or a delivery training program under Title 16, chapter 4, part 10, prior to their first alcohol delivery.

(b) Any beer or table wine sold by the off-premises retail licensee for delivery must be removed from the off-premises retail licensee's licensed premises only during the hours in which the off-premises retail licensee is permitted to sell alcoholic beverages. The delivery must be completed within an hour after the time that the off-premises retail licensee is required to end sales of alcoholic beverages.

(c) Any beer or table wine unable to be delivered for any reason must be returned to the licensed premises of the off-premises retail licensee that sold the beer or table wine. The driver shall return the beer or table wine to the off-premises retail licensee prior to or at the end of the delivery route, unless the off-premises retail licensee is closed at the time of return, in which case the driver shall return the beer or table wine as soon as practicable. The third-party delivery licensee shall document and maintain a record of the delivery attempt. Drivers may not be compensated based on whether a delivery of beer or table wine results in a completed delivery transaction.

(d) The person to whom the delivery is made must be at least 21 years of age. The driver shall use an identification scanning software technology or an alternative approved by the department to verify the age of the recipient at the time of delivery.

(e) Deliveries may not be made to anyone who is apparently or obviously intoxicated.

(f) The outer packaging containing the beer or table wine being delivered must clearly indicate that the package contains an alcoholic beverage, unless one of the following conditions is met:

(i) the person delivering the order has personally retrieved and bagged or otherwise packaged the beer or table wine for delivery; or

(ii) the driver is notified through electronic or other means that the delivery order contains alcohol and that the recipient must be 21 years of age or older.

(g) Beer or table wine intended for delivery by a motor vehicle must be transported in the rear of the motor vehicle and may not be within the immediate arm's length of the driver or within a separate cargo area.

(h) Beer or table wine intended for delivery by bicycle must be in a closed compartment or otherwise out of reach of the bicycle operator.

(i) A off-premises retail licensee under this section may not deliver or facilitate delivery of beer or table wine to the following locations:

(i) a business licensed to sell alcoholic beverages at retail, with the exception of delivery to individual guest rooms of a lodging facility that is also licensed to sell alcoholic beverages at retail;

(ii) a location within the campus of an institution of higher education; or

(iii) a property that does not have a permanent address that includes a street name and number.

(j) An off-premises retail licensee under this section that delivers or facilitates the delivery of beer or table wine shall maintain books and records reflecting the date, time, address, and recipient of the alcohol delivery for each delivery, the name and address of the person making the delivery, and the name and business address of the off-premises retail licensee selling the alcoholic beverage. Records must be maintained in either hard copy or electronic format for 3 years. Off-premises retail licensees shall make these books and records available to the department and its investigators on reasonable notice from the department.

History: En. Sec. 1, Ch. 228, L. 1995; amd. Sec. 2, Ch. 528, L. 1997; amd. Sec. 1, Ch. 54, L. 1999; amd. Sec. 1, Ch. 375, L. 2013; amd. Sec. 1, Ch. 64, L. 2021; amd. Sec. 12, Ch. 194, L. 2021; amd. Sec. 4, Ch. 97, L. 2023; amd. Sec. 2, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 75, L. 2025. Amendment effective January 1, 2026.

Cross-References

Keg registration, 16-3-321.

Part 2
All-Beverages Licenses

Part Cross-References

Security interest in alcoholic beverage license — definitions, 16-4-801.

Appropriate alcoholic beverage license for certain gambling activities, 23-5-119.

16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(a) the county boundary within which the incorporated city or incorporated town is located; or

(b) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(b) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(i) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(5) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(6) When more than one new all-beverages license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985;

(b) a continuing care retirement community as provided in 16-4-315; or

(c) any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veteran's organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same-location requirement.

(9) The number of retail all-beverages licenses that the department may issue for use at premises situated more than 5 miles outside of any incorporated city or incorporated town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(10) An all-beverages license issued under subsection (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of annexation.

(11) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(12) A person licensed under this section may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(13) The department may adopt rules to implement this section.

History: En. Sec. 3, Ch. 84, L. 1937; amd. Sec. 1, Ch. 226, L. 1947; amd. Sec. 1, Ch. 164, L. 1949; amd. Sec. 1, Ch. 144, L. 1951; amd. Sec. 1, Ch. 56, L. 1955; amd. Sec. 1, Ch. 206, L. 1959; amd. Sec. 1, Ch. 217, L. 1963; amd. Sec. 1, Ch. 322, L. 1971; amd. Sec. 1, Ch. 340, L. 1974; Sec. 4-403, R.C.M. 1947; amd. and redes. 4-4-202 by Sec. 79, Ch. 387, L. 1975; amd. Sec. 6, Ch. 496, L. 1977; R.C.M. 1947, 4-4-202; amd. Sec. 2, Ch. 25, L. 1981; amd. Sec. 3, Ch. 519, L. 1981; amd. Sec. 3, Ch. 595, L. 1983; amd. Sec. 4, Ch. 731, L. 1985; amd. Sec. 24, Ch. 68, L. 1987; amd. Sec. 2, Ch. 267, L. 2005; amd. Sec. 201, Ch. 56, L. 2009; amd. Sec. 3, Ch. 5, Sp. L. November 2017; amd. Sec. 3, Ch. 342, L. 2019; amd. Sec. 2, Ch. 473, L. 2019; amd. Sec. 13, Ch. 194, L. 2021; amd. Sec. 2, Ch. 451, L. 2021; amd. Sec. 2, Ch. 93, L. 2023; amd. Sec. 9, Ch. 601, L. 2023.

16-4-202. Repealed. Sec. 12, Ch. 336, L. 2019.

History: En. 4-4-204 by Sec. 81, Ch. 387, L. 1975; R.C.M. 1947, 4-4-204(part); amd. Sec. 2, Ch. 583, L. 1979; amd. Sec. 25, Ch. 68, L. 1987; amd. Sec. 1, Ch. 371, L. 1997; amd. Sec. 2, Ch. 487, L. 1997; amd. Sec. 40, Ch. 51, L. 1999; amd. Sec. 1, Ch. 325, L. 1999.

16-4-203. Determination of public convenience and necessity. (1) An original license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or the transfer of ownership or location of a license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 may be

approved if the department does not receive the minimum number of protests required for a public convenience and necessity determination pursuant to 16-4-207, in which case the application must be regarded as a prima facie showing of public convenience and necessity and no further determination of public convenience and necessity is allowed.

(2) (a) If the department receives at least the minimum number of protests required for a public convenience and necessity determination, as provided in 16-4-207, an application must be approved when evidence indicates that the issuance of an original license or transfer of location will materially promote the public's ability to engage in the licensed activity.

(b) The issuance of an original license or a transfer of location will materially promote the public's ability to engage in the licensed activity if:

(i) the applicant's history and experience demonstrate the capacity to operate the proposed license in a lawful manner;

(ii) the approval of the application for the premises at the proposed location is consistent with the public's demand or probable demand for the licensed activity that presently exists or is reasonably expected to exist within the next 5 years in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located;

(iii) the approval of the application for the premises at the proposed location contributes to the public's ability to participate in the licensed activity throughout the quota area where the proposed premises is located and quota areas adjacent to the quota area where the proposed premises is located;

(iv) the approval of the application for the premises at the proposed location is consistent with adopted or pending planning, annexation, and zoning ordinances of local governments that confer or will confer jurisdiction over business and developments such as the proposed license in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located.

(3) Protests are limited to the operation of the alcoholic beverage license only. Protests related to gambling or other matters will not be considered by the department.

(4) When determining whether or not an application is justified by public convenience and necessity, the department may:

(a) receive evidence at the public hearing specified in 16-4-207 only from the applicant, any protestors whose protests the department has accepted pursuant to 16-4-207, and any other person summoned or called by either a protestor or applicant;

(b) find that the application is justified by public convenience and necessity if the applicant has provided substantial credible evidence as provided for in this subsection (4) that shows that the department's approval of the application will materially promote the public's ability to engage in the licensed activity. The substantial credible evidence required must include a consideration of each of the components of materially promoting the public's ability to engage in the licensed activity as provided in subsection (2)(b).

(5) For the purposes of this section, the following definitions apply:

(a) "Confer or will confer jurisdiction" means the power or authority that a local government or an appointed subsidiary of a local government has or may obtain within 1 year from the date of the hearing to consider and adopt planning, annexation, or zoning ordinances.

(b) "Licensed activity" means the purchase of alcoholic beverages for on-premises consumption in a business licensed to sell alcoholic beverages at retail for on-premises consumption.

(c) "Pending planning, annexation, and zoning ordinances" means the ordinances of a local government or an appointed subsidiary of a local government that were publicly considered within the year preceding the date of the hearing or are presently being considered.

History: En. 4-403.1 by Sec. 2, Ch. 340, L. 1974; Sec. 4-403.1, R.C.M. 1947; redes. 4-4-205 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-4-205; amd. Sec. 4, Ch. 156, L. 1991; amd. Sec. 3, Ch. 528, L. 1997; amd. Sec. 4, Ch. 336, L. 2019; amd. Sec. 2, Ch. 645, L. 2023.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

16-4-204. Transfer — catering endorsement for all-beverages licensees — competitive bidding — rulemaking. (1) (a) Except as provided in subsection (3), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within 5 miles of its corporate limits, by more than 43%; and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(2) When the department determines that a license may be transferred from one quota area to another under subsection (1), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to purchase and transfer a license.

(3) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(4) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(5) (a) Any all-beverages licensee is, on the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event on premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. Except as provided in subsection (5)(k) of this section, the alcoholic beverages must be consumed on the premises where the event is held.

(b) An application for a catering endorsement and an annual fee of $250 must be submitted to the department for its approval.

(c) An all-beverages license issued under 16-4-201 to a guest ranch is, on the approval and in the discretion of the department, entitled to a guest ranch catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending an event on the guest ranch other than at the licensed premises. These events do not need to be special events. The alcoholic beverages must be consumed where the event is held.

(d) With the exception of a guest ranch catering endorsement, an all-beverages licensee who holds a catering endorsement may not cater an event in which the licensee or the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's licensed premises measured in a straight line from the nearest entrance of the licensed premises to the nearest boundary of the catered event.

(e) Except as provided in subsection (5)(i), the storage of alcoholic beverages may occur on the premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents access by anyone other than the licensee or the licensee's employees.

(f) With the exception of a guest ranch catering endorsement, the licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A local government may charge a fee of $35.

(g) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(h) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(i) A licensee may sell and serve liquor, beer, and wine in the grandstands and bleacher area of the premises, as well as from a booth, stand, or other fixed placed on the premises when the catered event is held on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112. If the licensee has a written agreement with the state of Montana, a political subdivision of the state, or a Montana university to sell and serve liquor, beer, and wine for multiple catered events at the premises, the licensee may store liquor, beer, and wine to be used for the catered events on the premises of the fairground, public sports arena, or Montana university for the length of the written agreement if the liquor, beer, and wine can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's employees. Each catered event held at the premises is subject to the requirement in subsection (5)(f) and must be individually reported to the department.

(j) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

(k) A distiller licensed under 16-4-312 may apply to the department to sponsor a catered event with a licensee with a catering endorsement under this subsection (5) that allows for the sale of liquor in original packaging for off-premises consumption at a liquor manufacturing industry-specific event. The department may only approve six of these events per year.

(6) The department may adopt rules to implement this section.

History: (4)(a), (b) of 4-4-206 En. Sec. 88, Ch. 387, L. 1975; R.C.M. 1947, 4-4-206(4)(a)(b)(part); amd. Sec. 1, Ch. 139, L. 1979; amd. Sec. 3, Ch. 25, L. 1981; amd. Sec. 1, Ch. 59, L. 1981; amd. Sec. 1, Ch. 512, L. 1981; amd. Sec. 1, Ch. 29, L. 1983; amd. Sec. 1, Ch. 37, L. 1983; amd. Sec. 1, Ch. 59, L. 1983; amd. Sec. 1, Ch. 636, L. 1983; amd. Sec. 5, Ch. 731, L. 1985; amd. Sec. 1, Ch. 34, L. 1987; amd. Sec. 3, Ch. 180, L. 1987; amd. Sec. 2, Ch. 599, L. 1993; amd. Sec. 25, Ch. 7, L. 2001; amd. Sec. 1, Ch. 85, L. 2001; amd. Sec. 3, Ch. 369, L. 2003; amd. Sec. 1, Ch. 277, L. 2007; amd. Secs. 4, 5, Ch. 5, Sp. L. November 2017; amd. Sec. 4, Ch. 342, L. 2019; amd. Sec. 4, Ch. 395, L. 2021; amd. Sec. 1, Ch. 299, L. 2023; amd. Sec. 3, Ch. 585, L. 2023.

16-4-205. Limitation on number of licenses — business in name of licensee. (1) Subject to the provisions of 16-4-401, a person may not be issued more than seven all-beverages licenses, with the exception of:

(a) resort retail all-beverages licenses issued under 16-4-213, which do not count toward this limit; and

(b) a secured party issued an additional all-beverages license as the result of a default. A secured party shall transfer ownership of any additional all-beverages license within 180 days of issuance. A business may not be carried on under any license issued under this chapter except in the name of the licensee.

(2) The provisions of this section do not apply to licenses held by the Montana heritage preservation and development commission under the provisions of 16-4-305.

History: En. Sec. 9, Ch. 84, L. 1937; Sec. 4-411, R.C.M. 1947; amd. and redes. 4-4-207 by Sec. 89, Ch. 387, L. 1975; R.C.M. 1947, 4-4-207; amd. Sec. 1, Ch. 82, L. 1985; amd. Sec. 3, Ch. 251, L. 1999; amd. Sec. 1, Ch. 211, L. 2013; amd. Sec. 5, Ch. 336, L. 2019; amd. Sec. 1, Ch. 371, L. 2023.

Cross-References

Secured transactions, Title 30, ch. 9A.

16-4-206. Renumbered 16-4-402(1) and (3). Code Commissioner, 1979.

16-4-207. Notice of application — investigation — publication — protest. (1) (a) When an application has been filed with the department for a license to sell alcoholic beverages at retail issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or to transfer the ownership or location of a license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213, the department shall review the application for completeness and, based on review of the application and any other information supplied to the department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make requests for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code

is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks.

(b) (i) Notice may be substantially in the following form for an applicant without a premises:

NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE

Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used within the (quota area). Residents of..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of....., 20.....

Dated.....

Signed

.....

(ii) Notice may be substantially in the following form for a premises only:

NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE

Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of..... counties may protest against the approval of the premises location only as notice of protest for the applicant has already occurred. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of....., 20.....

Dated.....

Signed

.....

(iii) Notice may be substantially in the following form for an applicant and premises applied for at the same time or if the location of the license will be floated out of the quota area it was initially noticed in:

NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE

Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of....., 20.....

Dated.....

Signed

.....

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice. There may be two charges if the applicant applies for licensure prior to applying for a premises under 16-4-417.

(3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing.

(b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1).

(c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

(4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and (9) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses.

(d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of an alcoholic beverage license application in that state or county. The department may, by rule, establish how the certification is to be made.

History: **En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; R.C.M. 1947, 4-4-302(part); amd. Sec. 1, Ch. 583, L. 1979; amd. Sec. 1, Ch. 445, L. 1983; amd. Sec. 1, Ch. 231, L. 1989; amd. Sec. 5, Ch. 156, L. 1991; amd. Sec. 5, Ch. 414, L. 1993; amd. Sec. 4, Ch. 528, L. 1997; amd. Sec. 41, Ch. 51, L. 1999; amd. Sec. 3, Ch. 448, L. 2001; amd. Sec. 5, Ch. 110, L. 2003; amd. Sec. 1, Ch. 86, L. 2011; amd. Sec. 6, Ch. 5, Sp. L. November 2017; amd. Sec. 5, Ch. 342, L. 2019; amd. Sec. 4, Ch. 479, L. 2019; amd. Sec. 3, Ch. 645, L. 2023.**

16-4-208. Airport all-beverages license. (1) The department shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 5,000 passengers annually when:

(a) application is made;

(b) on finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application must be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to up to three individuals or entities approved by the department.

(3) The lessee of an airport all-beverages license may purchase alcohol and the lease may be based on the percentage of sales of alcoholic beverages by the lessee. The lessee has the same rights and privileges as an airport all-beverage license issued under this section, and, in the event of a violation, is subject to reprimand, suspension of the lessee's alcohol operations, or a civil penalty not to exceed $1,500 as provided for a retail licensee under 16-4-406.

(4) A public airport all-beverages license and all retail alcoholic beverage sales under it are subject to all statutes and rules governing all-beverages licenses, except for the provisions for curbside pickup as allowed under 16-3-312.

(5) The department shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated.

History: En. Sec. 1, Ch. 461, L. 1979; amd. Sec. 26, Ch. 68, L. 1987; amd. Sec. 14, Ch. 194, L. 2021; amd. Sec. 5, Ch. 97, L. 2023; amd. Sec. 2, Ch. 359, L. 2023.

16-4-209. All-beverages license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club. (1) Upon application and qualification, the department shall issue an all-beverages license to:

(a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-201.

(3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but the license may be transferred only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing all-beverages licenses.

(5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

History: En. Sec. 2, Ch. 731, L. 1985; amd. Sec. 202, Ch. 56, L. 2009; amd. Sec. 15, Ch. 194, L. 2021.

16-4-210. Resort license — tour boat endorsement. (1) A holder of a resort all-beverages license issued under 16-4-213 may be issued a tour boat endorsement to allow the sale of alcoholic beverages to passengers on boats at least 40 feet in length and equipped to carry at least 50 passengers.

(2) The endorsement must be issued upon written application to the department and submission of an annual fee of $200. The applicant must also submit proof:

(a) of compliance with the following requirements:

(i) county health department inspection and approval of food services offered on the boat;

(ii) inspection and approval by the department of fish, wildlife, and parks of boat safety equipment requirements;

(iii) current boat registration; and

(iv) business liability insurance coverage; and

(b) that the registered owner of the tour boat is:

(i) a resort all-beverages licensee;

(ii) an individual named on a resort all-beverages license; or

(iii) a stockholder owning 10% or more of any class of stock in a corporate resort all-beverages license.

(3) Alcoholic beverages may be sold pursuant to the endorsement authorized in subsection (1) only while the boat is underway within 30 miles of the resort boundary or is in preparation for scheduled departure. Except as provided in this subsection, no alcoholic beverages may be sold or served when the boat is secured at its or any other mooring.

(4) Sale of alcoholic beverages under the endorsement is subject to all other requirements imposed for any all-beverages license issued under this part.

History: En. Sec. 1, Ch. 149, L. 1989; amd. Sec. 6, Ch. 336, L. 2019.

Cross-References
Boats — certificate of title, 23-2-508.
Boat safety equipment requirements, 23-2-521.

16-4-211. Resort area — purpose — policy. It is the intent and purpose of 16-4-211 through 16-4-213 to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail all-beverages licenses may be issued by the department under the terms of 16-4-213.

History: En. Sec. 1, Ch. 336, L. 2019.

16-4-212. Resort area determination. (1) To obtain a resort area designation, the resort area developer or landowner must submit an application with a plat setting forth the resort area boundaries and designating the ownership of the lands within the resort area. The plat must show the location and general design of the buildings and other improvements existing or to be built in the resort area. A master plan for the development of the resort area may be filed by the resort area developer in satisfaction of this section.

(2) (a) In addition to the other requirements of this code, at the time of application, a resort area:

(i) may not be located within the boundaries of an incorporated city or town quota area as described in 16-4-201(1) or (2), except that if the resort area is located in a county having a consolidated city-county unit of local government, the resort area must be more than 5 miles from the historical corporate limits of the city or town that existed immediately before the abandonment or consolidation into the consolidated city-county unit of local government;

(ii) must have a current actual valuation of resort or recreational facilities, including land and improvements, of not less than $10 million, at least $5 million of which valuation must be for a structure or structures within the resort area;

(iii) must be under the sole ownership or control of one person or entity;

(iv) must contain a minimum of 125 acres of land; and

(v) must provide details of the recreational facilities that are or will be on the grounds of the resort that warrant the resort designation being granted. These recreational facilities must be completed prior to licenses being issued in 16-4-213.

(b) A resort area's current actual valuation under subsection (2)(a)(ii) may be determined by using an independent appraisal or the department's tax appraisals of the property.

(c) For the purposes of this subsection (2), "control" means land or improvements that are owned or that are held under contract, lease, option, or permit.

(3) Within 15 business days after the application is filed, the department shall schedule a public hearing to be held in the proposed area to determine whether the facility proposed by the resort area developer or landowner is a resort area. At least 30 days prior to the date of the hearing, the department shall publish notice of the hearing in a newspaper published in the county or counties in which the resort area is located, once a week for 4 consecutive weeks. The notice must include a description of the proposed resort area. The resort area developer or landowner shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publication.

(4) A person may present, in person or in writing, a statement to the department at the hearing in opposition to or in support of the application.

(5) Within 30 days after the hearing, the department shall approve or deny the application. If the application is denied, the applicant may request a review of the decision of the department pursuant to the Montana Administrative Procedure Act.

(6) Once a resort area has been approved by the department, the boundaries of a resort area may not be changed without a new application.

(7) (a) Except as provided in subsection (7)(b), an approved resort area designation lapses if no resort all-beverages licenses are issued pursuant to 16-4-213 within 5 years of the department's approval of the resort area or if the resort area applicant cannot demonstrate substantial progress toward completion of the improvements and outdoor recreational facilities described in the application.

(b) A resort area designation that received department approval prior to January 1, 2024, lapses if no resort all-beverages licenses are issued pursuant to 16-4-213 by January 1, 2029.

(c) A developer or landowner of a lapsed resort area may reapply to the department to obtain a new resort area designation.

History: En. Sec. 2, Ch. 336, L. 2019; amd. Sec. 4, Ch. 645, L. 2023.

16-4-213. Resort retail all-beverages licenses. (1) After a resort area has been approved, applications may be filed with the department for the issuance of resort retail all-beverages licenses within the resort area.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort retail all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units within an approved resort area as long as the recreational facilities under 16-4-212 have also been completed.

(b) (i) For a resort area with a perimeter containing at least 500 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than $20 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number of accommodation units.

(ii) For a resort area with a perimeter containing at least 2,000 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than $40 million, the department may issue up to 25 resort retail all-beverages licenses regardless of the number of accommodation units.

(c) A resort area designation application to the department that received approval prior to January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a $20,000 license fee. Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal fees as provided in 16-4-501.

(d) (i) For purposes of this code, "accommodation unit" means a unit that is available for short-term guest rental and includes:

(A) a single-family home;

(B) a single unit of an apartment, condominium, or multiplex;

(C) a single room of a hotel or motel; or

(D) similar living space. A space under this subsection (2)(d)(i)(D) must be distinctly separated from other living spaces within the building and have its own sleeping, bath, and toilet facilities.

(ii) In order to qualify toward the required total for the purposes of subsection (2)(a), accommodation units may not be located within the boundaries of a quota area as provided in 16-4-201(1) or (2) as of the date of submission for a resort retail all-beverages license.

(3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no more than 20 gambling machine permits may be issued for the resort area.

(4) A resort retail all-beverages license within the resort area:

(a) is subject to all other requirements of an all-beverages license in this code, except:

(i) for the purposes of premises suitability under 16-3-311, a licensed retailer may use a part of the building as a licensed premises for the consumption of alcoholic beverages on the premises. The premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which alcoholic beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access;

(ii) the interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control, and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators;

(iii) the on-premises consumption of alcoholic beverages not sold or provided at the premises is allowed if those alcoholic beverages were sold or provided by another on-premises licensee authorized to sell the same type of alcoholic beverages within the same resort area; and

(iv) the premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic.

(b) is not subject to the quota limitations set forth in 16-4-201; and

(c) is transferable to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area.

(5) For licenses issued under this section, a licensee may apply to the department to allow for the delivery of alcohol to guests of accommodation units and the prestocking of alcoholic beverages in accommodation units within the designated resort area property as long as the purchaser's age is verified. The application fee is $100.

(6) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided in 16-4-1005.

(7) A resort retail all-beverages licensee whose premises is located outside of a quota area as defined in 16-4-201(1) or (2) may enter into a maximum of one concession agreement per license with an unlicensed entity to serve alcoholic beverages. Except for 16-4-418(1), the provisions of 16-4-418 apply.

(8) If a resort area has two or more resort retail all-beverage licenses or retail all-beverages licenses within the boundaries of the resort, the licensees may also apply to use a resort alternate alcoholic beverage storage facility to be located within the resort area. The application fee is $100. The alternate storage facility will be considered part of each licensee's existing licensed premises, though it does not need to be contiguous to qualify for approval. The licensees using the alternate storage facility must meet all requirements to ensure the secure storage of alcoholic beverages and prevent on-site consumption of alcoholic beverages. Alcoholic beverages in sealed containers belonging to multiple licensees within the resort area may be stored in the same storage facility. A resort retail licensee or retail licensee who is approved to use the alternate storage facility may accept delivery of alcoholic beverages at the alternate storage facility and may transfer alcoholic beverages to another licensee approved to use the alternate storage facility. Any transfer of alcoholic beverages between approved licensees must be properly accounted for. Approval to use the alternate storage facility must be documented on the face of each license within the resort area that applies to use the alternate storage facility.

(9) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

History: En. Sec. 3, Ch. 336, L. 2019; amd. Sec. 16, Ch. 194, L. 2021; amd. Secs. 4, 11, Ch. 568, L. 2021; amd. Sec. 5, Ch. 645, L. 2023; amd. Sec. 3, Ch. 745, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 745, L. 2025. Amendment effective June 1, 2025.

Part 3
Special Licenses

Part Cross-References

Security interest in alcoholic beverage license — definitions, 16-4-801.

16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine — application and issuance. (1) (a) The following organizations or institutions that conduct a special event may receive up to 12 special permits during a calendar year to sell beer and table wine to the patrons of the special event:

(i) an organization or institution that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended;

(ii) an organization or institution that is organized and operated to raise funds for a person in need; or

(iii) an organization or institution that is an accredited Montana postsecondary school.

(b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, may receive up to 12

special permits a year to sell beer and table wine. For purposes of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary school may be authorized to apply for and receive special permits under this section. All net earnings from the sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended.

(c) An association or corporation engaged in professional sporting contests or junior hockey contests may receive one special permit to sell beer and table wine covering the entire season of play if:

(i) the association or corporation is sanctioned by a sports organization that regulates the specific sport;

(ii) the season of play of the sport is specified in advance;

(iii) an admission fee to the contests is charged; and

(iv) the contest events are held in facilities that provide seating for at least 1,000 patrons.

(d) A chamber of commerce or business league that has a tax-exempt designation under section 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special permits a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for an event conducted by a business league, and a business league may not use one of its permits for an event conducted by a chamber of commerce. The chamber of commerce or business league receiving a special permit shall obtain liquor liability insurance for any event it conducts.

(e) A winery licensed pursuant to 16-4-107 may receive up to 12 special permits during a calendar year to provide wine that was fermented or blended at the winery's licensed premises. The special permit allows the winery to sell its products for off-premises consumption if the products are sold in their original packaging.

(f) The beer and wine sold under this subsection (1) must be consumed at the time when and within the enclosure where the special event, activity, or sporting contest is held.

(g) An application for a special permit must be presented 5 business days in advance, but the department may, for good cause, waive the 5-day requirement. The application must describe the location of the enclosure where the special event, activity, or sporting contest is to be held, the nature of the special event, activity, or sporting contest, and the period during which it is contemplated that the special event, activity, or sporting contest will be held. An application for a permit for professional sporting contests or junior hockey contests under subsection (1)(c) must provide the inclusive dates of the season of play for the sporting contest. The application must be accompanied by the amount of the permit fee and a written statement of approval of the premises where the special event, activity, or sporting contest is to be held issued by the local law enforcement agency that has jurisdiction over the premises.

(h) A special permit issued under this subsection (1) for the purpose of selling and serving beer and table wine at a special event, activity, or sporting contest conducted on the premises of a county fairground or public sports arena authorizes the permitholder to sell and serve beer and table wine in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(i) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization that may receive special permits for three special events a year to sell beer and table wine. All net proceeds must go to the post or lodge acquiring the special permit.

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

(b) The application of a nationally chartered veterans' organization or lodge of a recognized national fraternal organization must describe the location of the hall or building where the special permit will be used and the date it will be used.

(c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the department may not issue more than 12 special permits to any post or lodge during a calendar year.

History: En. Sec. 13, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.35, R.C.M. 1935; amd. Sec. 1, Ch. 235, L. 1963; amd. Sec. 1, Ch. 285, L. 1974; Sec. 4-332, R.C.M. 1947; amd. and redes. 4-4-105 by Sec. 65, Ch. 387, L. 1975; amd. Sec. 4, Ch. 496, L. 1977; R.C.M. 1947, 4-4-105; amd. Sec. 1, Ch. 401, L. 1981; amd. Sec. 2, Ch. 37, L. 1983; amd. Sec. 2, Ch. 34, L. 1987; amd. Sec. 2, Ch. 180, L. 1987; amd. Sec. 26, Ch. 7, L. 2001; amd. Sec. 1, Ch. 89, L. 2001; amd. Sec. 4, Ch. 369, L. 2003; amd. Sec. 2, Ch. 733, L. 2023.

16-4-302. Passenger carrier licenses. Common carriers serving Montana may serve alcoholic beverages to passengers in aircraft over or railroad cars in the state of Montana upon the issuance of a retail all-beverages license by the department for that purpose. Such licenses shall be issued on an annual basis to common carriers making application therefor and shall be effective from July 1 of the current year to July 1 of the following year.

History: En. 4-4-109 by Sec. 114, Ch. 387, L. 1975; R.C.M. 1947, 4-4-109(part); amd. Sec. 27, Ch. 68, L. 1987.

16-4-303. Special beer and table wine license for nonprofit arts organizations. (1) A nonprofit arts organization as defined in subsection (4) is entitled to a special beer and table wine license to sell beer and table wine to patrons of exhibitions, productions, performances, or programs sponsored or presented by the organization in a specific theatre or other appropriately designated place for on-premises consumption.

(2) The proceeds derived from sales of beer and table wine, except for reasonable operating costs, must be used to further the purposes of the organization.

(3) The department shall have access to the organization's records to determine whether the organization is entitled to a license under this section.

(4) For the purposes of this section, the term "nonprofit arts organization" means an organization governed under Title 35, chapter 2, that is organized and operated for the principal purpose of providing artistic or cultural exhibitions, presentations, or performances for viewing or attendance by the general public. Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of a member or individual except a nonprofit organization, association, or corporation. An artistic or cultural exhibition, presentation, or performance includes:

(a) an exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums; and

(b) a musical or dramatic performance or series of performances.

(5) A license issued under this section is not subject to the provisions of 16-4-105.

History: En. Sec. 1, Ch. 380, L. 1987.

16-4-304. Beer and wine license for Yellowstone airport. (1) Upon application, the department of revenue shall issue a retail beer and wine license to the Yellowstone airport, which is an airport near West Yellowstone, Montana, owned by the state of Montana and operated by the department of transportation.

(2) The application must be made by the department of transportation. The department of transportation may lease the license of use at the airport to an individual or entity approved by the department of revenue.

(3) The license is valid for the retail sale of beer and wine.

(4) The lessee shall pay to the department of revenue an annual license fee as provided in 16-4-501.

(5) The license issued pursuant to this section:

(a) is not subject to the quota provisions of 16-4-105;

(b) is nontransferable;

(c) does not permit gambling activities otherwise allowed under Title 23, chapter 5.

History: En. Sec. 1, Ch. 529, L. 1993; amd. Sec. 1, Ch. 293, L. 2005.

16-4-305. Montana heritage retail alcoholic beverage licenses — use — quota. (1) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the

state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail alcoholic beverage licenses.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail alcoholic beverage licenses.

(4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages licenses and retail on-premises beer and wine licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999.

History: En. Sec. 1, Ch. 251, L. 1999; amd. Secs. 7, 8, Ch. 5, Sp. L. November 2017; amd. Sec. 6, Ch. 342, L. 2019; amd. Sec. 5, Ch. 60, L. 2023; amd. Sec. 6, Ch. 97, L. 2023.

16-4-306. Transfer of existing license to political subdivision of state — rulemaking. (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer and wine license and, on approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) must be taken into account in determining the license quota restrictions of 16-4-105; and

(f) is subject to all license fees, laws, and rules applicable to retail beer and wine licenses.

(3) The department may adopt rules to implement the provisions of this section.

History: En. Sec. 1, Ch. 169, L. 2009; amd. Secs. 9, 10, Ch. 5, Sp. L. November 2017; amd. Sec. 7, Ch. 342, L. 2019; amd. Sec. 6, Ch. 60, L. 2023; amd. Sec. 7, Ch. 97, L. 2023.

16-4-307. *(Effective January 1, 2026)* **Third-party delivery license — definitions.** (1) An off-premises retail licensee as provided for in 16-4-115 shall sell beer or table wine to the end consumer for personal use only and not for resale. A third-party delivery licensee may not sell beer or table wine to the end consumer. The off-premises retail licensee must have the exclusive authority to determine which beer or table wine is available for delivery and set the prices for these beverages.

(2) (a) The department may issue a third-party delivery license to a third-party delivery applicant if the following requirements are met:

(i) the third-party delivery applicant meets the requirements for an off-premises retail licensee under 16-4-401 to hold a license; and

(ii) the third-party delivery applicant submits an application and pays the initial license fee as provided in 16-4-501.

(b) Third-party delivery licenses may be renewed annually by June 30 if:

(i) the third-party delivery licensee continues to meet the requirements for an off-premises retail licensee under 16-4-401 to hold a license; and

(ii) the third-party delivery licensee submits a renewal form and the annual renewal fee as provided in 16-4-501.

(3) A third-party delivery licensee may only deliver or facilitate the delivery of beer or table wine through drivers who:

(a) are an employee or an independent contractor of the third-party delivery licensee;

(b) are at least 21 years of age;

(c) have a valid driver's license for delivery through a motor vehicle or a valid driver's license or a state-issued identification for delivery through bicycle or other means not a motor vehicle;

(d) have not been convicted of a felony, unless the driver's rights have been restored, or a driving under the influence offense in the past 7 years; and

(e) have completed a responsible server and sales training program or a delivery training program under Title 16, chapter 4, part 10, prior to their first alcohol delivery.

(4) Third-party delivery licensees are subject to the penalties provided in Title 16, chapter 4, part 10.

(5) Any beer or table wine sold by an off-premises retail licensee for delivery by or through a third-party delivery licensee must be removed from the off-premises retail licensee's licensed premises only during the hours in which the off-premises retail licensee is permitted to sell alcoholic beverages. The delivery must be completed within an hour after the time that the off-premises retail licensee is required to end sales of alcoholic beverages.

(6) Any beer or table wine unable to be delivered for any reason must be returned to the licensed premises of the off-premises retail licensee that sold the beer or table wine. The driver shall return the beer or table wine to the off-premises retail licensee prior to or at the end of the delivery route, unless the off-premises retail licensee is closed at the time of return, in which case the driver shall return the beer or table wine as soon as practicable. The third-party delivery licensee shall document and maintain a record of the delivery attempt. Drivers may not be compensated based on whether a delivery of beer or table wine results in a completed delivery transaction.

(7) The person to whom the delivery is made must be at least 21 years of age. The driver shall use an identification scanning software technology or an alternative approved by the department to verify the age of the recipient at the time of delivery.

(8) Deliveries may not be made to anyone who is apparently or obviously intoxicated.

(9) The outer packaging containing the beer or table wine being delivered must clearly indicate that the package contains an alcoholic beverage, unless one of the following conditions is met:

(a) the person delivering the order has personally retrieved and bagged or otherwise packaged the beer or table wine for delivery; or

(b) the driver is notified through electronic or other means that the delivery order contains alcohol and that the recipient must be 21 years of age or older.

(10) Beer or table wine intended for delivery by a motor vehicle must be transported in the rear of the motor vehicle and may not be within the immediate arm's length of the driver or within a separate cargo area.

(11) Beer or table wine intended for delivery by bicycle must be in a closed compartment or otherwise out of reach of the bicycle operator.

(12) A licensee under this section may not deliver or facilitate delivery of beer or table wine to the following locations:

(a) a business licensed to sell alcoholic beverages at retail, with the exception of delivery to individual guest rooms of a lodging facility that is also licensed to sell alcoholic beverages at retail;

(b) a location within the campus of an institution of higher education; or

(c) a property that does not have a permanent address that includes a street name and number.

(13) A licensee under this section that delivers or facilitates the delivery of beer or table wine shall maintain books and records reflecting the date, time, address, and recipient of the alcohol delivery for each delivery, the name and address of the person making the delivery, and the name and business address of the off-premises retail licensee selling the alcoholic beverage. Records must be maintained in either hard copy or electronic format for 3 years. Licensees shall make these books and records available to the department and its investigators on reasonable notice from the department.

(14) An off-premises retail licensee may utilize the services of a third-party delivery licensee by means of the telephone, the internet, a mobile application, or other electronic means to facilitate the ordering or delivery of beer or table wine from inventory located at the off-premises retail licensee's licensed premises.

(15) An off-premises retail licensee is not subject to violations of this section that arise out of the delivery of beer or table wine delivered by a third-party delivery licensee.

(16) A violation of this code by a third-party delivery licensee or its drivers subjects the third-party delivery licensee to penalties as provided in 16-4-406.

(17) Nothing in this section may be construed to require a technology services company to obtain a third-party delivery license if the company does not employ or contract with delivery drivers and instead provides software or an application that connects consumers and off-premises retail licensees for the delivery of beer or table wine from the off-premises retail licensee.

(18) A third-party delivery license is not required for a common carrier lawfully transporting or shipping alcoholic beverages.

(19) The third-party delivery licensee shall maintain a general liability insurance policy in an amount of no less than $1 million for each occurrence with a $2 million aggregate.

(20) The department may adopt rules to implement this section.

(21) As used in this section, the following definitions apply:

(a) "Third-party delivery license" means a license issued by the department to a third-party delivery licensee for the delivery of beer or table wine.

(b) "Third-party delivery licensee" means a person who offers a service to deliver or facilitate the delivery of, but not to buy or sell, beer or table wine in original packaging from an off-premises retail licensee issued a license under 16-4-115 and enters into a written agreement with the off-premises retail licensee for the purpose of delivering beer or table wine sold by the off-premises retail licensee.

History: En. Sec. 1, Ch. 75, L. 2025.

Compiler's Comments

Effective Date: Section 13, Ch. 75, L. 2025, provided: "[This act] is effective January 1, 2026."

16-4-308 and 16-4-309 reserved.

16-4-310. Definitions. For the purpose of 16-4-311 and 16-4-312, the following definitions apply:

(1) "Microdistillery" means a distillery located in Montana that produces 200,000 proof gallons or less of liquor annually.

(2) "Produces" means the distillation of liquor on the premises of the distillery licensee.

History: En. Sec. 1, Ch. 591, L. 2005; amd. Sec. 1, Ch. 160, L. 2019.

16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the department.

(3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees to deliver the product. The amount of product delivered may not be less than a case. The department shall create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency liquor stores must be invoiced by the department for product received from a distillery.

(b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each delivery, subject to inspection by the department.

(c) The department shall pay the distillery for any product delivered to an agency liquor store:

(i) the current freight rate; and

(ii) the distiller's current quoted price per case.

(d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-401(9), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the colocated premises does count toward production levels for tax purposes.

History: En. Sec. 2, Ch. 591, L. 2005; amd. Sec. 4, Ch. 277, L. 2011; amd. Sec. 1, Ch. 375, L. 2015; amd. Sec. 10, Ch. 601, L. 2023.

16-4-312. Domestic distillery. (1) A distillery located in Montana and licensed pursuant to 16-4-311 may:

(a) import necessary products in bulk;

(b) bottle, produce, blend, store, transport, or export liquor that it produces;

(c) perform those operations that are permitted for bonded distillery premises under applicable regulations of the United States department of the treasury; and

(d) have a premises that includes more than one building for manufacturing purposes pursuant to 27 CFR 19.53 and is operated under a federal basic permit.

(2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to the department under this code, and the department shall include the distillery's liquor as a listed product.

(b) The distillery may use a common carrier for delivery of the liquor to the department.

(c) A distillery that produces liquor within the state under this subsection (2) shall maintain records of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices of liquor that it ships to the department and other information that the department may determine to be necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

(3) (a) A distillery that is located in Montana and licensed to manufacture distilled spirits may be licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing distilled spirits in addition to distributing and selling distilled spirits from the storage depot, subject to this code.

(b) To be licensed for a storage depot, a distillery shall pay an annual license fee as provided in 16-4-501 for each storage depot operated by the distillery, in addition to all other fees and taxes required to be paid by the distillery, and must meet all applicable suitability requirements.

(4) A microdistillery may:

(a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for prepared servings:

(i) through curbside pickup between 10 a.m. and 8 p.m.; and

(ii) for on-premises consumption during the hours of operation that are identical to those allowed for a brewery license provided for in 16-3-213(2)(b) and corresponding administrative rules relating to the service, consumption, and possession of alcoholic beverages on the premises; or

(b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if:

(i) not more than 4.5 liters a day is sold to an individual; and

(ii) the minimum retail price as determined by the department is charged.

(5) Liquor samples provided pursuant to subsection (4)(a) are not permitted at more than one manufacturing premises for each license.

(6) (a) A distillery located in the state and licensed pursuant to 16-4-311 may issue or sell warehouse receipts to any person. The warehouse receipt is for liquor stored at the distillery's licensed premises, including a licensed warehouse premises of the distillery, within the portion of the premises that is bonded pursuant to federal law, as provided in Title 30, chapter 7, except that for the purposes of this subsection (6), the term "distilled spirits" in 30-7-201(2) means "liquor" as defined in 16-1-106. The sale or purchase of warehouse receipts as provided in this subsection (6) does not constitute a transfer of an ownership interest in the distillery business or license.

(b) The department may not require any application or report to be filed in connection with the sale or purchase of warehouse receipts, provided that the liquor to which the warehouse receipts apply must physically remain within the distillery's licensed premises, including a licensed warehouse premises of the distillery, until the liquor is physically transferred in bond to another federally bonded premises, or until the liquor is otherwise transferred, sold, or disposed of in accordance with this code or applicable federal law.

(c) Warehouse receipts originally issued by a distillery as provided in this subsection (6) may be resold by a holder of the warehouse receipts to any person. A distillery or any subsequent holder of warehouse receipts may use an intermediary business to market, facilitate, manage, sell, and invest in warehouse receipts.

(d) A person may purchase or otherwise invest in warehouse receipts originally issued by distilleries licensed under federal law, regardless of whether the distillery is located in the state. Nothing in this section authorizes the holder or owner of a warehouse receipt to accept delivery of any liquor unless the person is permitted under law to receive the liquor.

History: En. Sec. 3, Ch. 591, L. 2005; amd. Sec. 1, Ch. 81, L. 2011; amd. Sec. 17, Ch. 194, L. 2021; amd. Sec. 3, Ch. 55, L. 2023; amd. Sec. 1, Ch. 209, L. 2023; amd. Sec. 1, Ch. 661, L. 2023; amd. Sec. 5, Ch. 728, L. 2023; amd. Sec. 1, Ch. 488, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 488, L. 2025. Amendment effective July 1, 2025.

16-4-313. Sacramental wine license. (1) The department may issue a sacramental wine license to an establishment whether located in or outside Montana that sells church supplies, including sacramental wine, at retail to rabbis, priests, pastors, ministers, or other officials of churches or other established religious organizations exclusively for use as sacramental wine or for other religious purposes. Sales of sacramental wine may not be made to the public.

(2) An application for a license under this section must be accompanied by a fee of $100, which constitutes the initial license fee. The annual license renewal fee is $50.

(3) Unless the sacramental wine is purchased onsite, an establishment selling sacramental wine for religious purposes may sell and deliver directly to the religious organization's premises by:

(a) using the establishment's own employees and equipment;

(b) contracting with a licensed distributor; or

(c) contracting with a common carrier, which maintains an alcohol shipment program, to ship and deliver the wine. If the wine is shipped and delivered by the common carrier, the shipment must be in boxes marked with the words "Wine Shipment From Sacramental Wine Licensee for Religious Purposes Only" and the boxes must also be conspicuously labeled with the words "Contains Alcohol: Signature of Person 21 Years of Age or Older Required for Delivery".

(4) A sacramental wine licensee shall maintain records of all wine sales made during the preceding 2 years and shall allow the department access to the records when requested so that the department can ascertain whether the limitations of subsection (1) are being complied with. The required record must include the addresses to which the sacramental wine is delivered and the printed name of the official of the church or other religious organization who signed for delivery.

(5) A sacramental wine licensee located out of state making sales under the provisions of this section is considered a distributor for the purposes of 16-1-411.

(6) Upon receipt of a completed application for a license under this section, the department shall, in exercising its sound discretion, determine whether:

(a) the applicant is qualified under this section to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are being met and complied with.

(7) License applications submitted under this section are not subject to the provisions of 16-3-402, 16-4-203, and 16-4-207.

(8) A person licensed under subsection (1) may transport sacramental wine from the licensee's premises to the religious organization's premises in any quantity for religious purposes.

(9) A sacramental wine licensee is not subject to the provisions of 16-4-1005 requiring licensees to ensure training.

History: En. Sec. 1, Ch. 414, L. 2009; amd. Sec. 6, Ch. 115, L. 2013; amd. Sec. 42, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 42, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-314. Academic brewer license under small brewer exception — conditions. (1) A postsecondary institution may apply for an academic brewer license under this section that allows the licensee to brew and sell beer to distributors as provided in this section. The academic brewer license:

(a) does not allow for the sale of beer at retail and does not allow for the operation of a sample room as provided in 16-3-213;

(b) is limited to production of 10,000 barrels annually;

(c) allows for distribution only to distributors as provided in 16-3-214;

(d) is under the ownership of a postsecondary institution;

(e) may not offer gambling activities;

(f) is otherwise subject to laws applying to brewery licenses as provided in this code; and

(g) must operate in an on-campus facility operated in conjunction with a beer-brewing class or curriculum taught at the postsecondary institution or in conjunction with research at the postsecondary institution.

(2) When a postsecondary institution has met the conditions in subsection (3) and has paid the fee specified for a brewer under 16-4-501, the department shall issue the academic brewer license.

(3) To obtain a license under this section, a postsecondary institution shall:

(a) document approval by the postsecondary institution's board of trustees or the board of regents of higher education, as applicable;

(b) identify the on-campus location of the site where classes in beer making are to be held or where research is to take place; and

(c) for criminal background requirements under 16-4-414, designate two or more individuals, each of whom must have responsibility for licensing compliance and each of whom must meet the requirements in 16-4-401(2)(a).

(4) For the purposes of this section, the term "postsecondary institution" means:

(a) a unit of the Montana university system as described in 20-25-201; or

(b) a Montana community college that is part of a community college district as defined in 20-15-101.

(5) The department may adopt rules to implement this section.

History: En. Sec. 1, Ch. 343, L. 2017; amd. Sec. 1, Ch. 53, L. 2023; amd. Sec. 9, Ch. 749, L. 2023; amd. Sec. 43, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 43, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-315. Limited all-beverages license for continuing care retirement communities — requirements — rulemaking — definitions. (1) A continuing care retirement community may apply to the department for limited, nontransferable all-beverages licenses provided that each license is approved for only one campus that meets the requirements of this section and are exempt from the quota under 16-4-201 if the following conditions are met:

(a) the applicant meets the requirements of 16-4-401, complies with 16-4-207 and 16-4-402, and pays an application fee of $500, which constitutes the first annual license fee. If an application is denied, the department shall refund 75% of the application fee. Annual license renewal fees are as provided in 16-4-501.

(b) the continuing care retirement community has a central dining area at which the alcoholic beverages may be served or purchased for on-premises consumption;

(c) the serving hours for alcoholic beverages are within the hours of 11 a.m. to 8 p.m.;

(d) those serving the alcoholic beverages must be 18 years of age or older and have completed the responsible server and sales training program as provided in 16-4-1005; and

(e) those purchasing the alcoholic beverages must be residents of the continuing care retirement community or guests of a resident of the continuing care retirement community.

(2) The limited all-beverages license for a continuing care retirement community does not authorize gaming or gambling under Title 23, chapter 5, parts 3, 5, or 6, but may allow live bingo or keno if the continuing care retirement community is authorized under 23-5-405 for live bingo and keno and complies with Title 23, chapter 5, part 4.

(3) The limited all-beverage license does not allow sale of an alcoholic beverage for off-premises consumption, is subject to 16-3-241, and does not entitle the licensee to a catering endorsement under 16-4-204.

(4) This section does not ban from the continuing care retirement community's residential areas the residents' possession of alcoholic beverages otherwise obtained.

(5) For a license issued under this section, a licensee shall inform the department before making deliveries that the licensee intends to deliver alcohol to a continuing care retirement community to residents' individual living units, which may include separate cottages or townhomes, within the designated continuing care retirement community campus as long as the purchaser is verified to be a current resident of the continuing care retirement community.

(6) (a) It is lawful for a licensee approved under this section to sell alcoholic beverages as follows:

(i) in multiple alcohol service locations separately from the main licensed premises as long as those service locations are on the campus, include food service, and are owned, leased, or otherwise under the control of and operated by the licensee;

(ii) on patios, decks, or controlled lawn areas on the campus immediately adjacent to the building in which a license is established. All exterior service locations must have either a natural or artificial boundary that is controlled for access.

(iii) if the licensee's campus includes a swimming pool in or adjacent to a permanent, licensed alcohol service area, in the swimming pool area separate from the main licensed premises.

(b) Buildings or structural premises allowed under this subsection (6) may be separate from the building comprising the main licensed premises but must otherwise meet the premises suitability requirements specified in 16-3-311.

(7) If a continuing care retirement community campus has two or more approved service buildings within the boundaries of the campus, the licensee may also apply to use one noncontiguous storage area to be located within that campus if it meets all requirements to ensure the secure storage of alcoholic beverages and prevent onsite consumption of alcoholic beverages.

(8) The department may make rules to implement this section as necessary to recognize the combination of individual residences and communal areas that a continuing care retirement community represents.

(9) For the purposes of this section, the following definitions apply:

(a) (i) "Campus" means a contiguous area of land in which a continuing care retirement community is operating, consisting of at least one residential facility that provides a graduated level of care. The term may include other facilities that only provide independent living options for individuals 55 years of age or older.

(ii) For the purposes of this section:

(A) a continuing care retirement community licensee may operate multiple continuing care retirement community licenses, so long as each license is approved for only one campus that meets all of the requirements of this section; and

(B) a continuing care retirement community licensee's campus must have a primary address, although licensed buildings and a noncontiguous storage area located on the campus may have differing addresses as appropriate for the campus.

(b) "Continuing care retirement community" means a residential facility on one campus under the same operator that:

(i) is administered under professional licensure by the department of public health and human services; and

(ii) provides to individuals 55 years of age or older an independent living option and a graduated level of care. The graduated level of care, as defined in this section, may include an assisted living facility, as defined in 50-5-101.

(c) (i) "Dining area" means an area designated on a floor plan submitted by the applicant in conjunction with an application for a continuing care retirement community all-beverage license where food is offered to residents of a continuing care retirement community and alcohol may be served.

(ii) For the purposes of this subsection (9)(c), the term:

(A) must be interpreted to allow for more than one drink preparation area in the dining area and to allow a continuing care retirement community to have more than one dining area on campus; and

(B) may not be required to include a kitchen facility, kitchen appliances, or similar food preparation areas so long as one dining area within the campus has a kitchen and food preparation area.

(d) (i) "Graduated level of care" means a campus that provides more than one level of care.

(ii) Options for levels of care on a campus may include but are not limited to the following:

(A) independent living;

(B) short-term rehabilitation and nursing care; and

(C) an assisted living facility as defined in 50-5-101.

(e) "Guest" means an individual who is either the nonresident spouse of a resident of the continuing care retirement community or an individual invited by a resident.

(f) "On-premises" means within the confines of the continuing care retirement community campus.

History: En. Sec. 1, Ch. 473, L. 2019; amd. Sec. 2, Ch. 307, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 307, L. 2025. Amendment effective July 1, 2025.

Part 4
Licensing Criteria

Part Cross-References

Video gaming machine licenses for alcoholic beverage licensees, 23-5-611.

Prohibition against discrimination in issuance of license, 49-3-204.

16-4-401. License as privilege — criteria for decision on application — restrictions — colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (5) of this section and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license, for the approval of the transfer of a license, or for the renewal of a license that:

(a) if the applicant is an individual:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and

(iii) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a);

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation, all of the following must apply:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (7) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company:

(i) all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(ii) the limited liability company is authorized to do business in Montana;

(g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

(h) if the applicant is a nonprofit organization:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the nonprofit organization is authorized to do business in Montana;

(i) if the applicant is a cooperative association:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the cooperative association is authorized to do business in Montana.

(3) The applicant and any individual of the applicant who must meet the requirements of (2)(a) must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license.

(4) In the case of a corporate applicant, the requirements of subsection (2)(b) or (2)(c) apply separately to each class of stock.

(5) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

(6) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony unless the person's rights have been restored.

(7) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of $100,000 with each individual transaction not to exceed $25,000 to be used on behalf of the licensed entity.

(b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

(c) It is the intent of this subsection (7) to facilitate the efficient administration of an entity licensed under this code.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through a business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held.

(c) An applicant applying for an all-beverages license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

(d) An applicant and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

(e) Except as provided in subsection (9), an applicant for an on-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a).

(f) An applicant for an off-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a).

(g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or distributing license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic beverage sales.

(h) An applicant for a distributor license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage.

(9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

(b) A person with an ownership interest in a licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not also have an ownership interest in a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing license and the retail license without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a licensee and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located.

(10) Ownership of warehouse receipts as provided in 16-4-312 does not constitute ownership, control, or affiliation with the distillery that originally issued the warehouse receipt. A person who holds a warehouse receipt as provided in 16-4-312(6) is not restricted from any activity regulated by the department that is otherwise legal for the person. Except in connection with the department's income tax enforcement duties as provided in Title 15, the department is not authorized to require a distillery or any other person to provide information regarding the sale or purchase of warehouse receipts.

History: En. Sec. 10, Ch. 84, L. 1937; amd. Sec. 1, Ch. 76, L. 1945; amd. Sec. 1, Ch. 244, L. 1947; amd. Sec. 1, Ch. 10, L. 1957; Sec. 4-412, R.C.M. 1947; amd. and redes. 4-4-108 by Sec. 90, Ch. 387, L. 1975; R.C.M. 1947, 4-4-108; amd. Sec. 2, Ch. 186, L. 1979; amd. Sec. 3, Ch. 359, L. 1981; amd. Sec. 1, Ch. 178, L. 1983; amd. Sec. 20, Ch. 19, L. 1985; amd. Sec. 1, Ch. 133, L. 1985; amd. Sec. 28, Ch. 68, L. 1987; amd. Sec. 36, Ch. 530, L. 1995; amd. Sec. 2, Ch. 148, L. 1999; amd. Sec. 4, Ch. 448, L. 2001; amd. Sec. 5, Ch. 591, L. 2005; amd. Sec. 1, Ch. 197, L. 2007; amd. Sec. 2, Ch. 211, L. 2013; amd. Sec. 7, Ch. 336, L. 2019; amd. Sec. 2, Ch. 161, L. 2021; amd. Sec. 5, Ch. 568, L. 2021; amd. Sec. 13, Ch. 601, L.2023; amd. Sec. 2, Ch. 488, L. 2025; amd. Sec. 44, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 2, Ch. 488, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 44, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Age of majority, Art. II, sec. 14, Mont. Const.

Criminal justice policy — rights of convicted, Art. II, sec. 28, Mont. Const.

Rules for determining residence, 1-1-215.

Voter qualifications, 13-1-111.

16-4-402. Application — investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee, the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license; and

(ii) (A) the applicant's premises are suitable for the carrying on of the business;

(B) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or

(C) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(5), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of ownership or location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

History: En. Sec. 6, Ch. 84, L. 1937; Sec. 4-408, R.C.M. 1947; amd. and redes. 4-4-303 by Sec. 85, Ch. 387, L. 1975; amd. Sec. 9, Ch. 496, L. 1977; Sec. 4-4-303, R.C.M. 1947; (1), (3)En. Sec. 5, Ch. 84, L. 1937; amd. Sec. 2, Ch. 221, L. 1939; amd. Sec. 2, Ch. 163, L. 1941; Sec. 4-407, R.C.M. 1947; amd. and redes. 4-4-301 by Sec. 83, Ch. 387, L. 1975; amd. Sec. 7, Ch. 496, L. 1977; Sec. 4-4-301, R.C.M. 1947; Sec. 16-4-206, MCA 1979; redes. 16-4-402(1) and (3) by Code Commissioner, 1979; amd. Sec. 1, Ch. 18, L. 1979; amd. Sec. 3, Ch. 37, L. 1983; amd. Sec. 1, Ch. 51, L. 1983; amd. Sec. 6, Ch. 156, L. 1991; amd. Sec. 6, Ch. 414, L. 1993; amd. Sec. 4, Ch. 599, L. 1993; amd. Sec. 3, Ch. 228, L. 1995; amd. Sec. 5, Ch. 528, L. 1997; amd. Sec. 2, Ch. 54, L. 1999; amd. Sec. 6, Ch. 110, L. 2003; amd. Sec. 1, Ch. 257, L. 2007; amd. Secs. 11, 12, Ch. 5, Sp. L. November 2017; amd. Sec. 8, Ch. 336, L. 2019; amd. Sec. 8, Ch. 342, L. 2019; amd. Sec. 5, Ch. 479, L. 2019.

16-4-403. Repealed. Sec. 11, Ch. 110, L. 2003.

History: Ap. p. Sec. 1, Ch. 487, L. 1973; Sec. 4-408.1, R.C.M. 1947; amd. and redes. 4-4-304 by Sec. 86, Ch. 387, L. 1975; Sec. 4-4-304, R.C.M. 1947; Ap. p. Sec. 2, Ch. 487, L. 1973; Sec. 4-408.2, R.C.M. 1947; redes. 4-4-305 by Sec. 120, Ch. 387, L. 1975; Sec. 4-4-305, R.C.M. 1947; R.C.M. 1947, 4-4-304, 4-4-305; amd. Sec. 7, Ch. 414, L. 1993.

16-4-404. Protest period — contents of license — posting — privilege — transfer. (1) A license may not be issued until on or after the date set in the notice for hearing protests.

(2) Every license issued under this code must state the name of the person to whom it is issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under the license, and other information the department considers necessary. If the licensee is a partnership or if more than one person has an interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises in which the business authorized under the license is conducted, and the license must be exhibited on request to any authorized representative of the department or the department of justice or to any peace officer of the state of Montana.

(3) A license issued under the provisions of this code is a privilege personal to the licensee named in the license and is valid until the expiration of the license unless sooner revoked or suspended.

(4) A license may be transferred pursuant to 16-4-431 to the personal representative, executor, or administrator of the estate of a deceased licensee, or to a designee of the personal representative, executor, or administrator, when the estate consists in whole or in part of the business of selling alcoholic beverages under a license. The license may descend or be disposed of with the licensed business under appropriate probate proceedings.

(5) A licensee may apply to the department for a transfer of the license to different premises within the quota area. The department may, after notice and opportunity for protest, permit a transfer if the transfer is justified by public convenience and necessity, pursuant to 16-4-203, unless a public convenience and necessity hearing is required by 16-4-207.

(6) On a bona fide sale of the business operated under a license, the license may be transferred to a qualified purchaser. A transfer of a license to a person or location is not effective unless approved by the department. A licensee or transferee or proposed transferee who operates or attempts to operate under a supposedly transferred license prior to the approval of the transfer by the department, endorsed on the license in writing, is considered to be operating without a license and the license affected may be revoked or suspended by the department.

(7) The department may not deny or withhold approval of the transfer of an alcoholic beverage license to a purchaser or transferee solely because of outstanding taxes, penalties, or interest owed by the seller. Any proceeds from the sale of an alcoholic beverage license are subject to any existing liens or warrants for distraint that the department has filed against the seller as provided in 16-1-414.

(8) The alcoholic beverage inventory of an existing licensee may be transferred under the following scenarios:

(a) on a bona fide sale of the business operated under a license when the department:

(i) has granted temporary operating authority to the buyer to operate the license; or

(ii) has approved transfer of the license to the buyer;

(b) on a license type change at an existing licensed premises when the department has granted temporary operating authority or approved the issuance of the new license, as long as the alcoholic beverage is allowed by the new license type;

(c) on approval of a corporate structure change at an existing licensed premises;

(d) on the sale of a license to be floated out of a quota area when the department has granted temporary operating authority or approved the license transfer; or

(e) when a licensee is going out of business but only if the unopened alcohol is in its original packaging and the licensee receiving the alcohol is licensed for that type of alcohol.

(9) Except as provided in 16-4-204 and subsections (2) through (8) of this section, a license may not be transferred or sold or used for any place of business not described in the license. A license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, on application to and approval of the department, must be endorsed on the license. Beer or wine sold to a licensee on credit pursuant to 16-3-243 or 16-3-406 does not create a lien on a license, but a subsequent licensee has the obligation to pay for the beer or wine.

History: (1)En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; R.C.M. 1947, 4-4-302(part); (2) thru (7) En. Sec. 8, Ch. 84, L. 1937; amd. Sec. 1, Ch. 97, L. 1951; Sec. 4-410, R.C.M. 1947; amd. and redes. 4-4-206 by Sec. 88, Ch. 387, L. 1975; R.C.M. 1947, 4-4-206(part); redes. from 16-4-204(1)-(5), (8) by Code Commissioner, 1983; amd. Sec. 29, Ch. 68, L. 1987; amd. Sec. 7, Ch. 156, L. 1991; amd. Sec. 1, Ch. 311, L. 1993; amd. Sec. 8, Ch. 414, L. 1993; amd. Sec. 6, Ch. 528, L. 1997; amd. Sec. 2, Ch. 6, L. 2023; amd. Sec. 2, Ch. 28, L. 2023; amd. Sec. 1, Ch. 215, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 215, L. 2025. Amendment effective April 17, 2025.

Applicability: Section 4, Ch. 215, L. 2025, provided: "[This act] applies to all alcohol license transfers:

(1) filed with the department before [the effective date of this act] and that are being considered by the department as of [the effective date of this act]; or

(2) filed with the department on or after [the effective date of this act]." Effective April 17, 2025.

Cross-References

Mortgages generally, Title 71, ch. 1.

Liens generally, Title 71, ch. 3, part 1.

16-4-405. Denial of license. (1) The department may deny the issuance of a retail alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) A retail license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) A license under this code may not be issued if the department finds from the evidence at the hearing held pursuant to 16-4-207(3) that:

(a) the welfare of the people residing or of retail licensees located in the vicinity of the premises for which the license is desired will be adversely and seriously affected;

(b) if required, there is not a public convenience and necessity justification pursuant to 16-4-203;

(c) the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code; or

(d) the purposes of this code will not be carried out by the issuance of the license.

History: (1), (2) En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; Sec. 4-4-201, R.C.M. 1947; (3) En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; Sec. 4-4-302, R.C.M. 1947; R.C.M. 1947, 4-4-201 (part), 4-4-302 (part); amd. Sec. 30, Ch. 68, L. 1987; amd. Sec. 8, Ch. 156, L. 1991; amd. Sec. 7, Ch. 528, L. 1997; amd. Sec. 6, Ch. 479, L. 2019.

Cross-References

Sales prohibited by ordinance, 16-3-309.

Nuisances and their abatement, Title 27, ch. 30.

Disorderly conduct, 45-8-101.

Maintaining public nuisance, 45-8-111.

16-4-406. Renewal — suspension or revocation — penalty — mitigating and aggravating circumstances — contrived events. (1) The department shall, upon a written, verified complaint of a person, request that the department of justice investigate the action and operation of a brewer, winery, domestic distillery, distributor, beer or wine importer, retailer, concessionaire, or any other person or business licensed or registered under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of either the licensee or concessionaire or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee or concessionaire has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

(a) reprimand a licensee or concessionaire or both;

(b) proceed to revoke the license of the licensee or the concession agreement of the concessionaire or both only if the violations jeopardize health, welfare, and safety or there is not a proposed cure in place;

(c) suspend the license or the concession agreement or both for a period of not more than 3 months;

(d) refuse to grant a renewal of the license or concession agreement or both after its expiration only if the violations jeopardize health, welfare, and safety or there is not a proposed cure in place; or

(e) impose a civil penalty not to exceed $1,500.

(3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) there have been no violations by the licensee or concessionaire or both within the past 3 years;

(b) there have been good faith efforts by the licensee or concessionaire or both to prevent a violation;

(c) written policies exist that govern the conduct of the licensee's employees or the concessionaire's employees or both;

(d) there has been cooperation in the investigation of the violation that shows that the licensee or concessionaire or both or an employee or agent of the licensee or concessionaire or both accepts responsibility; or

(e) the licensee or concessionaire or both have provided responsible alcohol server training to all of their employees.

(4) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) multiple violations during the course of the investigation;

(e) efforts to conceal a violation;

(f) the intentional nature of the violation; or

(g) involvement of more than one patron or employee in a violation.

(5) The department may not issue a violation to a licensee or a concessionaire provided the investigation was not based on complaints or on observed misconduct but was based solely on a contrived event by the investigating authority or another designated organization creating the opportunity for a violation. The department may issue a violation only if the licensee or concessionaire fails more than two contrived event investigations within a 3-year period beginning with the first failure. For purposes of this section, the first two violations resulting from a contrived event investigation within a 3-year period do not constitute a violation of this code, and the department may not consider these violations in considering any mitigating circumstances and penalties as provided in this section.

History: **En. Sec. 46, Ch. 106, L. 1933; re-en. Sec. 2815.45, R.C.M. 1935; amd. Sec. 8, Ch. 166, L. 1951; Sec. 4-342, R.C.M. 1947; amd. and redes. 4-4-402 by Sec. 69, Ch. 387, L. 1975; R.C.M. 1947, 4-4-402; amd. Sec. 9, Ch. 156, L. 1991; amd. Sec. 9, Ch. 414, L. 1993; amd. Sec. 4, Ch. 163, L. 2001; amd. Sec. 7, Ch. 110, L. 2003; amd. Sec.**

1, Ch. 327, L. 2013; amd. Sec. 1, Ch. 97, L. 2015; amd. Sec. 7, Ch. 479, L. 2019; amd. Sec. 1, Ch. 103, L. 2021; amd. Sec. 6, Ch. 568, L. 2021; amd. Sec. 45, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 45, Ch. 637, L. 2025. Amendment effective May 12, 2025.

Cross-References

Hearing under Montana Administrative Procedure Act, Title 2, ch. 4, part 6.

16-4-407. Renewal and nonrenewal of licenses — notices of federal permit. (1) Each July 1 or, when applicable, on the licensee's anniversary date, the department shall issue licenses to brewers, wineries, distillers, distributors, or retailers on an annual basis on receipt of a completed renewal form and payment of the fees prescribed by law.

(2) Subject to the opportunity for a hearing, the department may refuse to renew a license if the licensee no longer qualifies for licensure under 16-4-401, a completed license renewal form has not been received, or the annual renewal fees required by 16-4-501 are not paid by July 1 or, when applicable, the licensee's anniversary date.

(3) The department shall notify each applicant for an original license or renewal that it is the applicant's responsibility to determine if applicable provisions of federal law require the applicant to obtain a permit from a federal agency.

History: En. Sec. 2, Ch. 235, L. 1943; Sec. 4-406, R.C.M. 1947; amd. and redes. 4-4-404 by Sec. 82, Ch. 387, L. 1975; amd. Sec. 12, Ch. 496, L. 1977; R.C.M. 1947, 4-4-404; amd. Sec. 2, Ch. 29, L. 1983; amd. Sec. 21, Ch. 19, L. 1985; amd. Sec. 3, Ch. 54, L. 1999; amd. Sec. 5, Ch. 163, L. 2001; amd. Sec. 1, Ch. 42, L. 2023; amd. Sec. 46, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 46, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-408. Renewal of suspended licenses. After suspension or revocation of a license, the department shall have the power to renew the same if in its discretion a proper showing therefor has been made.

History: En. Sec. 27, Ch. 84, L. 1937; Sec. 4-429, R.C.M. 1947; amd. and redes. 4-4-405 by Sec. 102, Ch. 387, L. 1975; R.C.M. 1947, 4-4-405.

16-4-409. Repealed. Sec. 5, Ch. 595, L. 1983.

History: En. Sec. 5, Ch. 519, L. 1981.

16-4-410. Repealed. Sec. 5, Ch. 595, L. 1983.

History: En. Sec. 6, Ch. 519, L. 1981.

16-4-411. Appeals concerning alcoholic beverages laws. (1) Any interested party shall have the right to appeal any decision of the department of revenue concerning the issuance, transfer, suspension, or revocation of alcoholic beverages licenses to the district court in the county in which the issuance, transfer, suspension, or revocation occurred.

(2) The appeal must be in conformity with the provisions of Title 2, chapter 4, part 7.

History: En. 82A-1808 by Sec. 2, Ch. 207, L. 1973; en. 82A-1808 by Sec. 64.1, Ch. 391, L. 1973; R.C.M. 1947, 82A-1808; amd. Sec. 1, Ch. 135, L. 1985; amd. Sec. 31, Ch. 68, L. 1987; amd. Sec. 5, Ch. 535, L. 2021.

Cross-References

Contested cases — Montana Administrative Procedure Act, Title 2, ch. 4, parts 6 and 7.

16-4-412. Limits on concurrent applications. An application for the issuance of a new license or for the transfer of an existing license may not be considered by the department if a previous application for the same premises is pending. An application is considered pending if a final decision:

(1) has not been made by the department; or

(2) has been made by the department but:

(a) a petition for judicial review can still be filed or has been filed; or

(b) an appeal to the Montana supreme court can still be filed or has been filed.

History: En. Sec. 1, Ch. 156, L. 1991; amd. Sec. 3, Ch. 93, L. 2023.

16-4-413. Denial of application — two-year moratorium. (1) If an application for the issuance of a new license or for the transfer of an existing license has been denied for any reason provided in 16-4-405, the department may not consider an application or issue any retail license, special permit, or special license for those premises for 2 years unless the department, using the criteria described in subsection (3), determines that the proposed use is substantially

different from the use that was rejected. The prohibition period commences on the date of the final agency decision or, if judicially reviewed, on the date the judicial decision is final.

(2) If an application is withdrawn after a hearing has been held in which testimony is received regarding any reason for denial provided in 16-4-405, the effect of the withdrawal is the same as if a final decision had been made denying the application for any reason provided in 16-4-405. The 2-year prohibition against considering an application or issuing a license for that vicinity commences on the date of the withdrawal.

(3) The department shall determine whether a proposed use is substantially different by considering:

(a) the capacity of the proposed use;

(b) the nature of the establishment;

(c) the presence and character of any entertainment; and

(d) the characteristics of the neighborhood.

History: En. Sec. 2, Ch. 156, L. 1991; amd. Sec. 1, Ch. 32, L. 2023.

16-4-414. Fingerprints required of applicants and location managers — exceptions. (1) Except as provided in subsection (2), an applicant for a license under this code, an individual who must meet the requirements of 16-4-401 for the issuance of a new license or for the approval of the transfer of a license, and any person employed by the applicant as a location manager shall submit their fingerprints with the application to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. The results of the investigation must be used by the department in determining the applicant's eligibility for a license.

(2) (a) If the applicant employs a business entity as a location manager, a person designated pursuant to 16-4-419(3) is subject to the fingerprint and background check in subsection (1).

(b) A change in the form of a licensee's business entity that does not result in any person having a new ownership interest in the business is not grounds for the department to require a fingerprint or background check.

(3) Approved applicants may use a single background check and set of fingerprints for multiple license applications within 5 years. Applicants must attest that no criminal charges have been filed since the background check was last completed.

(4) For the purposes of this section, "a license under this code" means:

(a) a winery license issued pursuant to 16-3-411;

(b) a brewery license issued pursuant to 16-4-101;

(c) a beer and wine license issued pursuant to 16-4-105;

(d) a golf course beer and wine license issued pursuant to 16-4-109;

(e) a beer and wine license for a tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club issued pursuant to 16-4-110;

(f) a combined beer wholesaler and table wine distributor license issued pursuant to 16-4-113;

(g) a beer and wine license for off-premises consumption issued pursuant to 16-4-115;

(h) an all-beverages license issued pursuant to 16-4-201;

(i) an airport all-beverages license issued pursuant to 16-4-208;

(j) an all-beverages license for a tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club issued pursuant to 16-4-209;

(k) a resort retail all-beverages license issued pursuant to 16-4-213;

(l) a passenger carrier license issued pursuant to 16-4-302;

(m) a special beer and table wine license for nonprofit arts organizations issued pursuant to 16-4-303;

(n) a beer and wine license for Yellowstone airport issued pursuant to 16-4-304;

(o) a Montana heritage retail alcoholic beverage license issue pursuant to 16-4-305;

(p) a distillery license issued pursuant to 16-4-311;

(q) a sacramental wine license issued pursuant to 16-4-313;

(r) an academic brewer license issued pursuant to 16-4-314;

(s) a limited all-beverages license for continuing care retirement communities issued pursuant to 16-4-315; or

(t) a restaurant beer and wine license issued pursuant to 16-4-420.

History: En. Sec. 1, Ch. 110, L. 2003; amd. Sec. 1, Ch. 495, L. 2005; amd. Sec. 7, Ch. 568, L. 2021; amd. Sec. 3, Ch. 140, L. 2023; amd. Sec. 4, Ch. 81, L. 2025; amd. Sec. 2, Ch. 519, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 4, Ch. 81, L. 2025. Amendment effective April 7, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 519, L. 2025. Amendment effective May 8, 2025.

16-4-415. Changes in business entity ownership — department approval required. (1) In the case of corporate licensees, a person or entity that does not own stock or owns less than 15% of the stock in the corporation may not receive stock that results in the person or entity's share of stock in the corporation being 15% or greater, unless the department reviews and determines that the person or entity qualifies for ownership of a license as provided in 16-4-401.

(2) In the case of all other business entities, when a proposed transfer of ownership would result in a party who prior to the transfer owned no interest in the license owning 15% or more interest in the license, the proposed transfer must be submitted to the department for review. The proposed new party must qualify for ownership of an alcoholic beverage license as provided in 16-4-401.

(3) An ownership interest in an alcoholic beverage license may be transferred to an existing owner with 15% or more ownership in the license without department approval, subject to reporting requirements at the time of renewal.

(4) In the case of a proposed change in business entity, the proposed new business entity shall apply for a transfer of ownership of the license with the department prior to changing the business entity. The proposed new business entity must qualify for ownership of an alcoholic beverage license as provided in 16-4-401. If the existing owners and ownership percentages do not change under the proposed change in business entity, the new entity shall notify the department of the new business entity type, but prior department approval is not required.

History: En. Sec. 1, Ch. 148, L. 1999; amd. Sec. 8, Ch. 568, L. 2021; amd. Sec. 8, Ch. 97, L. 2023.

16-4-416. Ownership of alcoholic beverage license by United States. (1) Whenever right, title, and interest in an alcoholic beverage license vests in the United States, the United States shall promptly give notice to the department of its interest and shall have the license placed on nonuse status. The United States shall transfer ownership of the license to a qualified applicant within 180 days from the date on which it obtained an interest in the license. On receipt of an application to transfer the license, the department may, pursuant to 16-4-433, grant the applicant temporary operating authority to operate the license.

(2) The department, on a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days.

History: En. Sec. 1, Ch. 90, L. 2001; amd. Sec. 3, Ch. 28, L. 2023.

16-4-417. Approval of a licensee without premises — nonuse approval. (1) If an applicant has a license available to obtain under 16-4-104, 16-4-201, 16-4-204, or 16-4-420 but does not have a premises, the department may approve the applicant without approving the premises. The department shall issue the license if all other requirements of this code related to an applicant are met.

(2) (a) A license issued under subsection (1) must be immediately put on nonuse status until a premises is approved by the department and may not be transferred to another person or business entity prior to approval of the premises unless that transfer is due to a death of an owner or was reasonably beyond the control of the licensee. On issuance of the license under this section, the licensee shall apply for a premises within 6 months and must have the premises approved within 1 year from issuance of the license. The department may extend the nonuse period if the licensee provides evidence that the delay in use is for reasons outside the licensee's control and that the licensee is making progress toward licensure.

(b) After approval of the premises, a licensee shall operate the license for 1 year prior to transferring the license to another person or business entity unless that transfer is due to a death of an owner.

(c) A licensee shall pay all licensing fees annually even if the premises has not been approved. The department may establish nonuse license fees for a license issued under this section.

History: En. Sec. 1, Ch. 479, L. 2019; amd. Sec. 2, Ch. 29, L. 2023.

16-4-418. Concession agreements. (1) Except for entities licensed under 16-4-105(1)(e) or 16-4-201(8) on or after January 1, 2021, the department may allow entities licensed under 16-4-105 or 16-4-201 to enter into concession agreements with unlicensed entities to serve alcoholic beverages. A licensee may enter into a maximum of three concession agreements for each license at any given time.

(2) To be considered for approval, a concession agreement must:

(a) demonstrate that the licensed premises is a contiguous premises that includes the space utilized by the concessionaire; and

(b) provide that the licensee retains ultimate control over and responsibility for operating the license, including:

(i) the ordering, purchase, sale, and service of alcoholic beverages;

(ii) the right to discipline or otherwise sanction any employee in relation to the service of alcoholic beverages;

(iii) reconciling the proceeds of alcoholic beverage sales at least monthly;

(iv) terminating the concession agreement with cause where cause includes but is not limited to any violation of Title 16 and the sale or transfer of the license; and

(v) the exclusive operation of all gaming activities if the licensee offers any gaming.

(3) A licensee's gaming endorsement may not be extended through a concession agreement.

(4) Nothing in this section precludes a licensee and a concessionaire from sharing employees.

(5) A licensee may enter into a management agreement to satisfy the provisions of subsection (2)(b).

(6) (a) The licensee may compensate the concessionaire for the sale of alcoholic beverages based only on one of the following or a combination of the following considerations:

(i) a percentage of gross or net alcoholic beverage sales;

(ii) a percentage of employee overhead; and

(iii) a fixed dollar amount to be negotiated by the parties.

(b) If the licensee and concessionaire change the structure of the compensation arrangement, the department must be provided with a copy of the amended compensation arrangement but does not have the ability to deny the amended compensation arrangement as long as it meets the requirements of this section.

(7) (a) Other than changes provided in subsection (6)(b), a licensee shall submit any proposed modification to an existing concession agreement for review and approval by the department. Changes include but are not limited to proposed changes in ownership of the license and the parties of an existing concession agreement choosing to operate under the provisions of this section. The department shall approve or deny the application within 30 business days unless additional information is required. The existing concession agreement may remain in place pending department approval or denial. An applicant may apply for temporary operating authority pending approval for a change in ownership of a license or to operate under the provisions of this section without terminating an existing concession agreement.

(b) Parties with a concession agreement existing prior to May 14, 2021, that elect to operate under the provisions of this section shall operate under the existing concession agreement pending department approval of the new concession agreement.

(8) A concession agreement does not constitute an ownership interest in the license.

(9) The department shall create a standardized concession agreement that includes only the requirements of this section.

(10) The concessionaire shall pay the department an application fee of $500 for each new concession agreement or for existing concession agreements that elect to operate under the provisions of this section. The new concession agreement application fee does not apply to modification of existing concession agreements. The annual renewal fee for each concession agreement is $100.

(11) (a) For the purposes of this section, the term "contiguous premises" means the interior portion of the premises that must be a continuous area under the control of the licensee or the concessionaire and not interrupted by any area in which one of the parties does not have control.

(b) The term includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses

or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators.

History: En. Sec. 2, Ch. 479, L. 2019; amd. Sec. 1, Ch. 532, L. 2021; amd. Sec. 1, Ch. 270, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 270, L. 2025. Amendment effective October 1, 2025.

16-4-419. Location managers. (1) Each applicant and each licensee shall submit an application to the department designating at least one location manager. Except as provided in subsection (2), a location manager must meet the following requirements:

(a) the location manager's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the location manager is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(b) the location manager has not been convicted of a felony or, if the location manager has been convicted of a felony, the location manager's rights have been restored; and

(c) the location manager is not under 19 years of age.

(2) If a location manager is an applicant or owner required to be vetted under 16-4-401, the requirements of this section do not apply.

(3) If an applicant or licensee designates a business entity as a location manager, the business entity must designate at least one officer, member, or partner that meets the requirements of subsection (1).

History: En. Sec. 1, Ch. 140, L. 2023.

16-4-420. Restaurant beer and wine license — competitive bidding — rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (4) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food. The department may audit the 65% requirement at any time in the first year of ownership.

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule; and

(c) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) A completed application for a license under this section and the appropriate application fee, as provided in subsection (8), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (2)(a) and (2)(b). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license; and

(b) (i) the applicant's premises are suitable for the carrying on of the business;

(ii) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or

(iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct.

(3) An application for a license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(4) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food prepared on the premises and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food prepared on the premises.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. The dining room for the restaurant must contain at least half of the total available seats.

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(c) The provisions of subsections (4)(a)(iv) and (4)(b) do not apply to a restaurant for which a restaurant beer and wine license was in effect as of April 9, 2009, or to subsequent renewals of that license.

(5) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (5)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (5) based on the percentage amounts described in subsections (5)(a)(i) through (5)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (5)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(A) the county boundary within which the incorporated city or incorporated town is located; or

(B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(6) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (5)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(7) When more than one new restaurant beer and wine license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(8) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available.

(9) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (6) or (8), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for a new license.

(10) (a) Except as provided in subsection (10)(b), beer and wine may be sold for off-premises consumption, including curbside pickup, between the hours of 11 a.m. and 11 p.m. in original packaging, prepared servings, or growlers. If offering off-premises sales, food must also be ordered, the purchase price of the off-premises beer and wine may not exceed the purchase price of the food ordered, the beer or wine must be stated on the food bill, and the sales must count toward the 65% limit as provided in this section.

(b) A restaurant beer and wine licensee may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(11) The amount of the initial licensing fee is determined according to the following schedule and must be paid before the license is issued:

(a) $5,000 for restaurants with a stated seating capacity of 60 persons or fewer;

(b) $10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) $20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is $400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of licenses issued under this section to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the number of restaurant beer and wine licenses allowed in the quota area.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(16) A person licensed under this section may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection authorizes a licensee to consume, sell, serve, or give away liquor.

(17) The department may adopt rules to implement this section.

History: En. Sec. 1, Ch. 465, L. 1997; amd. Sec. 2, Ch. 324, L. 1999; amd. Sec. 27, Ch. 7, L. 2001; amd. Sec. 8, Ch. 110, L. 2003; amd. Sec. 1, Ch. 348, L. 2007; amd. Sec. 1, Ch. 187, L. 2009; amd. Sec. 197, Ch. 49, L. 2015; amd. Secs. 13, 14, Ch. 5, Sp. L. November 2017; amd. Sec. 9, Ch. 342, L. 2019; amd. Sec. 8, Ch. 479, L. 2019; amd. Sec. 18, Ch. 194, L. 2021; amd. Sec. 3, Ch. 451, L. 2021; amd. Sec. 7, Ch. 60, L. 2023; amd. Sec. 4, Ch. 93, L. 2023; amd. Sec. 1, Ch. 242, L. 2023; amd. Sec. 12, Ch. 601, L. 2023.

Cross-References

Catering endorsement for restaurant beer and wine licensee, 16-4-111.

Appropriate alcoholic beverage license for certain gambling activities, 23-5-119.

16-4-421. Denial of restaurant beer and wine license. (1) A restaurant beer and wine license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(2) A restaurant beer and wine license may not be issued or renewed if the department finds, subject to the opportunity for a hearing pursuant to Title 2, chapter 4, part 6, that the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria provided by law.

History: En. Sec. 2, Ch. 465, L. 1997.

16-4-422. Sale of beer and wine prohibited during certain hours. Except as provided in 16-3-305, restaurants licensed pursuant to 16-4-420 in which beer and wine are sold, offered for sale, or given away at retail may not serve beer and wine between the hours of 11 p.m. and 11 a.m. However, if an incorporated city or town has by ordinance further restricted the hours of sale of beer and wine, then the sale of beer and wine in restaurants licensed to sell beer and wine, pursuant to 16-4-420, is prohibited within the limits of the city or town during the time that the sale is prohibited by this section and in addition to the hours that the sale is prohibited by ordinance.

History: En. Sec. 3, Ch. 465, L. 1997.

16-4-423. Restaurant beer and wine license — prohibited practices. A restaurant licensed for the sale of beer and wine pursuant to 16-4-420 may not convey to any person by any means that a person may either purchase or consume beer or wine on the premises without being required to purchase food.

History: En. Sec. 4, Ch. 465, L. 1997.

16-4-430. Competitive bidding process — all-beverages, retail beer and wine, and restaurant beer and wine licenses. (1) (a) When the department determines that a quota area is eligible for a license under 16-4-105, 16-4-201, 16-4-204, or 16-4-420, the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for the license. The department shall use a competitive bidding process when:

(i) a new license becomes available in a quota area where a license of the same type is not currently available in the quota area;

(ii) the opportunity to transfer a license into a quota area becomes available where a license of the same type is not currently available in the quota area;

(iii) the lapse, revocation, or issuance of a license within the quota area where the license is located has created the last remaining license for that license type in the quota area; or

(iv) the department's denial of an application for licensure or an applicant's withdrawal of an application for licensure has created the last remaining license for that license type in a quota area.

(b) The department shall:

(i) determine the minimum bid based on 75% of the market value of applicable licenses in the quota area;

(ii) publish notice that a quota area is eligible for a new license;

(iii) notify the bidder with the highest bid; and

(iv) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(2) (a) To enter the competitive bidding process, a bidder shall submit an electronic bid form provided by the department.

(b) The department shall contact any bidder whose timely submitted bid form has a deficiency and shall provide that bidder with an opportunity to resubmit the bid form within 5 business days to correct any deficiency.

(3) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be the tied bid amount. To submit a new bid, a tied bidder shall submit an electronic bid form provided by the department.

(4) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to approval of the license;

(c) meet all other requirements to own the license; and

(d) commence business within 1 year of the department's notification, unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control. Any extension request must be made in writing to the department prior to the deadline for commencing business.

(5) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (4). If no qualified bidder is approved to own the license, the department shall reopen the competitive bidding process for the license.

(6) (a) If no bids are received during the competitive bidding process, the department shall reopen the bid at a lower bid amount than initially determined in subsection (1).

(b) If, after holding a competitive bidding process, the department determines that there is no significant market value for a particular license, the department may withdraw that license from the competitive bidding process and process applications for the license in the order received.

(c) If a quota area is already eligible for a license as of November 24, 2017, the department shall process applications for the license in the order received.

(7) (a) The successful applicant is subject to forfeiture of the license, the license fees, and the original bid amount if the successful applicant:

(i) applies to transfer the awarded license to another person or business entity within 1 year after receiving the license unless that transfer is due to a death of an owner;

(ii) proposes a location for the license within the first year of operation that had the same license type within the previous 12 months; or

(iii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control. Evidence of the delay must be made in writing to the department prior to the deadline for commencing business.

(b) If a license is forfeited, the department shall determine whether there is a lien against the license. If there is a lien, the department shall notify the lienholder or secured party of the forfeiture and the lienholder or secured party may foreclose on the license and request transfer of the license pursuant to 16-4-801. If there is not a lien on the license or if the lienholder or secured party does not foreclose on the license pursuant to 16-4-801, the department shall conduct another competitive bidding process for the license.

(8) A license issued under this section is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(9) Nothing in subsection (7) relating to forfeiture prohibits a lienholder or secured party from foreclosing on a license. A lien may be placed on a license issued under this section and

may be foreclosed on. If a license is foreclosed on, the department shall keep the license fees and the original bid amount and the lienholder or secured party may resell the license, pending department approval of the applicant.

History: En. Sec. 1, Ch. 342, L. 2019; amd. Sec. 5, Ch. 93, L. 2023.

16-4-431. Death or incapacity of licensee or owner of license — rulemaking. (1) The appointed conservator, guardian, personal representative, executor, or administrator shall notify the department within 90 days of appointment in the event of the death or the judicial determination of incapacity of a licensee or owner of the licensee if the licensee is an entity. In any event, the department must be notified within 180 days of the death or the judicial determination of incapacity of the licensee or owner of the licensee.

(2) The department may give the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee of the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, written approval to continue operation of the licensed business for the duration of the existing license and to renew the license when it expires. The appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee, must qualify for ownership of a license as provided in 16-4-401. If the department does not grant written approval to continue operation of the licensed business or the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee, does not qualify for ownership of a license as provided in 16-4-401, the license must be placed on nonuse status.

(3) Within 60 days of the closing of a decedent's estate or the judicial determination of restored capacity of a previously incapacitated licensee or owner of a license and removal of a conservator or guardian, the department must be provided with a copy of a court order or other documentation resolving the matter and, if a transfer is warranted, the true party of interest shall apply to transfer the license.

(4) The department may adopt rules to implement this section.

History: En. Sec. 1, Ch. 6, L. 2023.

16-4-432. License operation requirements. (1) A licensee under 16-4-104, 16-4-201, 16-4-204, or 16-4-420 shall:

(a) commence operating the license on issuance of the license from the department, unless the licensee was approved for a license without a premises under 16-4-417; and

(b) operate the license for 1 year prior to transferring the license to another person or business entity unless that transfer is due to a death of an owner.

(2) Failure to comply with the provisions of subsection (1) subjects the licensee to license revocation.

History: En. Sec. 1, Ch. 29, L. 2023.

16-4-433. Temporary operating authority. (1) The department may grant temporary operating authority to an applicant for a license issued under this code for a period not to exceed 180 days. The department may not extend the period of temporary operating authority beyond 180 days and may not grant temporary operating authority more than once for the same application.

(2) To be eligible to obtain temporary operating authority, and in addition to application requirements established by the department, the following requirements must be met:

(a) the license applied for must be currently operated at the proposed premises and the premises must not have been altered from the last approved floor plan; or

(b) the applicant must be a current licensee in good standing.

(3) An applicant is eligible to exercise all of the privileges of the license if temporary operating authority is granted by the department.

(4) The department may refuse to grant temporary operating authority if the department believes that the applicant is not qualified to hold a license, the applicant's proposed premises are not suitable for the operation of the business, or the department has adverse information about the applicant or the applicant's owners, officers, or managers. The department may immediately revoke temporary operating authority if the applicant or applicant's employees violate any provision of this code or any rules adopted under it. The refusal to grant temporary operating authority is not a contested case under the Montana Administrative Procedure Act.

(5) The granting of temporary operating authority is not a temporary license or a permit. It does not guarantee that the department will grant the application if it finds that the applicant is not qualified to hold a license or the premises are not suitable for the operation of the business.

History: En. Sec. 1, Ch. 28, L. 2023.

Part 5
Licensing Fees

16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, $500;

(ii) for each storage depot, $400;

(b) (i) each distributor, $400; each winery, $200;

(ii) for each subwarehouse and winery storage depot, $400;

(c) each beer and wine retailer, $400;

(d) (i) for a license to sell beer at retail for off-premises consumption only, $200;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans' organization, $50.

(2) The permit fee under 16-4-301(1) is computed at the following rate:

(a) $10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and

(b) $1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

(3) The permit fee under 16-4-301(2) is $10 for the sale of beer and table wine only or $20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued on payment by the applicant of an annual license fee in the sum of $300.

(5) The annual renewal fee for:

(a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is $200;

(b) resort retail all-beverages licenses within a given resort area is $2,000 for each license; and

(c) a continuing care retirement community limited all-beverages license is $500 for each license.

(6) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $250 for a unit of a nationally chartered veterans' organization and $400 for all other licensees;

(b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $350 for a unit of a nationally chartered veterans' organization and $500 for all other licensees;

(c) for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $500 for a unit of a nationally chartered veterans' organization and $650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $650 for a unit of a nationally chartered veterans' organization and $800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more

incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of a resort retail all-beverages license shall pay a $100,000 license fee on issuance of the license. The resort retail all-beverages license may be transferred to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area.

(7) The fee for one all-beverages license to a public airport is $800. This license is nontransferable.

(8) The annual fee for a retail beer and wine license to the Yellowstone airport is $400.

(9) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is $250.

(10) (a) The annual fee for a distillery is $600.

(b) The annual fee for each distillery storage depot is $400.

(11) The initial and annual fee for a third-party delivery license under 16-4-307 is $1,000.

(12) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(13) In addition to other license fees, the department may require a licensee to pay a late fee of 33⅓% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66⅔% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

(14) All license and permit fees collected under this section must be deposited as provided in 16-2-108.

History: **(1) thru (5), (9) En. Sec. 45, Ch. 106, L. 1933; amd. Sec. 15, Ch. 46, Ex. L. 1933; re-en, Sec. 2815.44, R.C.M. 1935; amd. Sec. 2, Ch. 246, L. 1947; amd. Sec. 1, Ch. 122, L. 1963; Sec. 4-341, R.C.M. 1947; amd. and redes. 4-4-401 by Sec. 68, Ch. 387, L. 1975; amd. Sec. 10, Ch. 496, L. 1977; Sec. 4-4-401, R.C.M. 1947; (6) En. 4-4-204 by Sec. 81, Ch. 387, L. 1975; Sec. 4-4-204, R.C.M. 1947; (7) En. Sec. 4, Ch. 84, L. 1937; amd. Sec. 1, Ch. 221, L. 1939; amd. Sec. 1, Ch. 163, L. 1941; amd. Sec. 1, Ch. 211, L. 1943; amd. Sec. 1, Ch. 236, L. 1947; amd. Sec. 1, Ch. 356, L. 1974; Sec. 4-404, R.C.M. 1947; R.C.M. 1947, 4-404 (part), 4-4-204 (part), 4-4-401(part); amd. Sec. 13, I.M. No. 81, app. Nov. 7, 1978; (8) En. Sec. 2, Ch. 461, L. 1979; amd. Sec. 1, Ch. 181, L. 1981; amd. Sec. 2, Ch. 401, L. 1981; amd. Sec. 4, Ch. 519, L. 1981; amd. Sec. 3, Ch. 29, L. 1983; amd. Sec. 2, Ch. 51, L. 1983; amd. Sec. 4, Ch. 595, L. 1983; amd. Sec. 22, Ch. 19, L. 1985; amd. Sec. 2, Ch. 141, L. 1985; amd. Sec. 32, Ch. 68, L. 1987; amd. Sec. 2, Ch. 380, L. 1987; amd. Sec. 21, Ch. 83, L. 1989; amd. Sec. 2, Ch. 225, L. 1989; amd. Sec. 2, Ch. 371, L. 1997; amd. Sec. 8, Ch. 528, L. 1997; amd. Sec. 4, Ch. 54, L. 1999; amd. Sec. 6, Ch. 163, L. 2001; amd. Sec. 2, Ch. 405, L. 2001; amd. Sec. 5, Ch. 369, L. 2003; amd. Sec. 2, Ch. 293, L. 2005; amd. Sec. 6, Ch. 591, L. 2005; amd. Sec. 9, Ch. 501, L. 2007; amd. Sec. 3, Ch. 271, L. 2017; amd. Sec. 9, Ch. 336, L. 2019; amd. Sec. 3, Ch. 473, L. 2019; amd. Sec. 4, Ch. 55, L. 2023; amd. Sec. 8, Ch. 60, L. 2023; amd. Sec. 4, Ch. 138, L. 2023; amd. Sec. 3, Ch. 75, L. 2025; amd. Sec. 47, Ch. 637, L. 2025.**

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 3, Ch. 75, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 47, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-502. Census. The census taken under the direction of congress shall be the basis upon which the respective populations of the counties and incorporated cities or towns shall be determined. However, in the interim between censuses, the department shall use as such basis the most recent population estimates published by the bureau of the census, United States department of commerce.

History: **En. Sec. 4, Ch. 84, L. 1937; amd. Sec. 1, Ch. 221, L. 1939; amd. Sec. 1, Ch. 163, L. 1941; amd. Sec. 1, Ch. 211, L. 1943; amd. Sec. 1, Ch. 236, L. 1947; amd. Sec. 1, Ch. 356, L. 1974; Sec. 4-404, R.C.M. 1947; amd. and redes. 4-4-403 by Sec. 119, Ch. 387, L. 1975; amd. Sec. 11, Ch. 496, L. 1977; R.C.M. 1947, 4-4-403; amd. Sec. 4, Ch. 25, L. 1981.**

16-4-503. City and county licenses — fees. The city council of any incorporated town or city or the county commissioners outside of any incorporated town or city may provide for the issuance of licenses to persons to whom a retail license has been issued under the provisions of this code and may fix license fees, not to exceed a sum equal to five-eighths of the fee for

an all-beverages license or 100% of the fee for a beer or beer and wine license collected by the department from such licensee under this code.

History: En. Sec. 28, Ch. 84, L. 1937; Sec. 4-430, R.C.M. 1947; amd. and redes. 4-4-406 by Sec. 103, Ch. 387, L. 1975; amd. Sec. 1, Ch. 509, L. 1977; R.C.M. 1947, 4-4-406.

Cross-References

Functions, powers, and duties of Department, 16-1-302.

Department rules governing conduct, management, and equipment of licensed premises, 16-1-303.

Parts 6 and 7 reserved

Part 8
Liquor License Security Interest

16-4-801. Security interest in alcoholic beverage license — definitions. (1) (a) A security interest in an alcoholic beverage license is an interest in the alcoholic beverage license that secures payment or performance of an obligation. A contract for the sale of an alcoholic beverage license, including a provision allowing the seller to retain an ownership interest in the license solely for the purpose of guaranteeing payment for the license, may, for the purposes of this section, be treated as a security interest.

(b) For the purposes of this section:

(i) "alcoholic beverage license" means a license issued under this chapter; and

(ii) "default" means that:

(A) the defaulting party has acknowledged in writing pursuant to the terms of a written security agreement or contract for sale that the defaulting party no longer has any ownership interest or any other rights to possess or control the alcoholic beverage license;

(B) a court of competent jurisdiction has made an order foreclosing all of the defaulting party's interests in the license; or

(C) there has been a nonjudicial sale by the secured party made pursuant to the Uniform Commercial Code and the secured party has provided written proof of the sale to the department.

(2) The department, after review of the underlying documents creating the security interest, may approve a transfer of ownership of an alcoholic beverage license subject to a security interest as provided in subsection (1). A person holding a security interest may not have any control in the operation of the business operated under a license subject to a security interest nor may that person share in the profits or the liabilities of the business other than the payment or performance of the licensee's obligation under a security agreement.

(3) (a) Within 7 days of a default by a licensee, the person holding the security interest shall give notice to the department of the licensee's default and either apply to have the license transferred to that person, subject to that person meeting the requirements of 16-4-401 and all other applicable provisions of this code, or the person shall place the license on nonuse status. On receipt of an application to transfer the license, the department may, pursuant to 16-4-433, grant the applicant temporary operating authority to operate the license. If the person holding the license places the license on nonuse status, the person shall transfer ownership of the license within 180 days from the date on which the notice of the default was given to the department. The operation of a business under a license by a person holding a security interest for more than 7 days after default of the licensee or without temporary operating authority issued by the department must be considered to be a violation of this code and constitutes grounds for the department to either deny an application for transfer of the license or for the revocation of the license pursuant to 16-4-406.

(b) If the person holding the security interest does not qualify for or cannot qualify for ownership of an alcoholic beverage license under 16-4-401, the secured party shall transfer ownership of the alcoholic beverage license within 180 days of the notice of the default of the licensee.

(c) The department, on a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days.

(4) (a) A regulated lender, as defined in 31-1-111, may obtain a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated

lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the alcoholic beverage license or the licensee's business by a coborrower, guarantor, or other person who may directly or indirectly benefit from the pledge of the alcoholic beverage license as collateral. As used in this subsection (4), "permissible loan and collateral structuring" includes but is not limited to permitting owners and nonowners of an alcoholic beverage license to:

(i) be coborrowers of a borrower's loan;

(ii) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor;

(iii) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan; or

(iv) pledge an alcoholic beverage license or the assets of an alcoholic beverage operation as additional collateral for a loan made by a regulated lender.

(b) A person claiming a security interest in an alcoholic beverage license may submit to the department copies of documents evidencing the security interest, the license number, and a $30 notification fee. The department shall deposit the fee as provided in 16-2-108. The department may create and provide a form to be used for this purpose.

(c) The department shall notify those that have filed information provided in subsection (4)(b):

(i) at least 20 days prior to issuance of an order of default for revocation, nonrenewal, or lapse of a license; or

(ii) immediately after the department's office of dispute resolution has issued a decision to uphold the department's revocation or nonrenewal of a license under 16-4-406 or lapse of a license under 16-3-310.

(5) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection (5):

(a) the party making the payment must be vetted and approved prior to making the payment;

(b) the licensee shall notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows:

(i) for a payment treated as a loan, the licensee shall memorialize the loan by a written agreement, which must be provided to the department; or

(ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee shall follow department requirements for disclosing changes in ownership percentages; and

(c) the funds used for the payment must be the party's own funds or funds borrowed from an institutional lender.

(6) If a borrower, coborrower, guarantor, or other person who may directly or indirectly benefit from the pledge of the alcoholic beverage license or the assets of an alcoholic beverage operation as collateral is not the licensee or an owner of the licensee, the coborrower, guarantor, or other person may make a payment on a licensee's institutional loan, and the payment does not create an undisclosed ownership interest in the alcoholic beverage license by the borrower, coborrower, guarantor, or other person only if:

(a) the licensee notifies the department within 90 days that the payment was made;

(b) the payment is made as a loan that is memorialized by a written agreement; and

(c) the funds used for the payment are the coborrower's, guarantor's, or other person's own funds or funds borrowed from an institutional lender.

(7) A regulated lender that obtains a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (5) or (6) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

(8) For the purposes of subsections (5) and (6), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid.

History: En. Sec. 1, Ch. 280, L. 1999; amd. Sec. 1, Ch. 422, L. 2003; amd. Sec. 1, Ch. 62, L. 2009; amd. Sec. 1, Ch. 301, L. 2017; amd. Sec. 4, Ch. 28, L. 2023; amd. Sec. 5, Ch. 81, L. 2025; amd. Sec. 1, Ch. 86, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 5, Ch. 81, L. 2025. Amendment effective April 7, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 86, L. 2025. Amendment effective October 1, 2025.

Part 9
Connoisseur's Licenses

Part Cross-References

Sale of table wine — liquor stores, Title 16, ch. 2, part 3.

Sale of table wine, Title 16, ch. 3, part 4.

16-4-901. Connoisseur's licenses — application — fees. (1) A person in this state desiring to receive direct shipments of beer from an out-of-state brewery for the person's own consumption and not for resale shall file with the department an application for a connoisseur's license. The application must be accompanied by a registration fee in the amount of $50 for a beer connoisseur's license.

(2) Each application for a license must be on a form prescribed by the department and must set forth the name of the applicant, the applicant's home or business address, proof that the applicant is at least 21 years of age, and other information that the department may require.

(3) A connoisseur's license expires on June 30 of each calendar year. A licensee may annually renew a license with the department by paying a $25 renewal fee for a beer connoisseur's license.

(4) The holder of a connoisseur's license may not sell beer to the public.

(5) The department shall adopt rules to provide procedures for the application for and the provision of a connoisseur's license.

History: En. Sec. 7, Ch. 543, L. 2001; amd. Sec. 8, Ch. 184, L. 2013.

16-4-902. Payment of taxes — authority of department. (1) A person holding a connoisseur's license shall pay, on June 30 and December 31, the beer taxes imposed by Title 16, chapter 1, part 4, on beer that is received by direct shipment from an out-of-state brewery during the previous 6-month period.

(2) Each holder of a connoisseur's license shall file with the department a return, on a form provided by the department, and pay the tax for shipments received.

History: En. Sec. 8, Ch. 543, L. 2001; amd. Sec. 9, Ch. 184, L. 2013.

16-4-903. Direct shipment of beer — limitations. (1) Subject to the provisions of 16-4-901, the holder of a connoisseur's license may receive up to 288 bottles or 12 cases of beer from an out-of-state brewery during a 12-month period for personal use and not for resale.

(2) A licensee under this section shall forward to the out-of-state brewery a distinctive address label, provided by the department, clearly identifying any package that is shipped as a legal direct-shipment package to the holder of a connoisseur's license.

(3) A licensee shall report to the department, on June 30 and December 31, the total amount of beer received from an out-of-state brewery and pay all applicable excise taxes, as provided for in Title 16, chapter 1, part 4, imposed on the receipt of beer during the previous 6 months.

History: En. Sec. 9, Ch. 543, L. 2001; amd. Sec. 10, Ch. 184, L. 2013.

16-4-904 and 16-4-905 reserved.

16-4-906. Out-of-state brewery registration — limitation on shipping — penalty. (1) Each out-of-state brewery desiring to ship beer to a person holding a connoisseur's license shall register with the department on forms provided by the department.

(2) The annual limit on out-of-state shipments to all connoisseur's license holders is 1,440 bottles or 60 cases of beer.

(3) For any shipment into the state that exceeds the limits provided for in subsection (2), the out-of-state brewery may:

(a) distribute the brewery's product through a licensed distributor; or

(b) distribute as a brewery in accordance with the provisions of 16-3-214.

(4) An out-of-state brewery that violates the provisions of this section is subject to the penalties provided for in 16-6-302.

History: En. Sec. 10, Ch. 543, L. 2001; amd. Sec. 10, Ch. 501, L. 2007; amd. Sec. 4, Ch. 516, L. 2007; amd. Sec. 11, Ch. 184, L. 2013; amd. Sec. 48, Ch. 637, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 48, Ch. 637, L. 2025. Amendment effective May 12, 2025.

16-4-907 through 16-4-909 reserved.

16-4-910. Penalty for noncompliance. (1) Except as provided in 16-4-906, a person who violates the provisions of this part commits a civil offense.

(2) A person convicted under subsection (1):

(a) for a first offense, must be mailed a certified letter by the department ordering that person to cease and desist committing the violation;

(b) for a second offense, shall be fined a civil penalty not to exceed $500; and

(c) for a third or subsequent offense, shall be fined a civil penalty not to exceed $2,500.

History: En. Sec. 11, Ch. 543, L. 2001.

Part 10
Responsible Alcohol Sales and Service

16-4-1001. Short title. This part may be cited as the "Responsible Alcohol Sales, Service, and Delivery Act".

History: En. Sec. 1, Ch. 412, L. 2011; amd. Sec. 4, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1002. Legislative intent. It is the intent of this part that retail establishments and manufacturers licensed to sell or serve alcoholic beverages to the public and third-party delivery services licensed to deliver or facilitate the delivery of alcoholic beverages to the public ensure that all licensees, their employees, and independent contractors that sell, serve, or deliver alcoholic beverages are appropriately trained to comply with state law prohibiting the sale, service, or delivery of alcoholic beverages to persons under 21 years of age and to persons who are intoxicated. This part does not apply to special permits issued under 16-4-301.

History: En. Sec. 2, Ch. 412, L. 2011; amd. Sec. 5, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1003. Definition. As used in this part, "licensee" means a person or entity licensed by the department to sell alcoholic beverages at retail for either on-premises or off-premises consumption or to deliver or facilitate the delivery of alcoholic beverages.

History: En. Sec. 3, Ch. 412, L. 2011; amd. Sec. 6, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1004. Notification — violation — penalty. (1) A licensee shall certify annually on its license renewal form that the licensee is in compliance with the provisions of this part.

(2) A license renewal form that falsely includes information that the licensee, their employees, or independent contractors have been trained pursuant to this part is a violation of this code.

(3) If, after an investigation under 16-4-406, a licensee is determined to have violated subsection (2) of this section, the licensee must be assessed an administrative penalty under 16-4-406 or the penalty for false swearing under 45-7-202.

History: En. Sec. 4, Ch. 412, L. 2011; amd. Sec. 7, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 7, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1005. Licensees required to ensure training. (1) A licensee shall:

(a) require each employee who is authorized to sell, serve, or deliver alcoholic beverages in the normal course of employment and the employee's immediate supervisor to successfully complete training to ensure compliance with state law regarding the sale, service, or delivery of

alcoholic beverages. Except as provided in 16-4-307, training must be completed within 60 days of the employee's date of hire, or for existing employees of a newly licensed business, within 60 days of the date of licensure, and every 3 years after the employee's initial training.

(b) maintain employment records verifying employee completion of the training required in subsection (1)(a).

(2) A licensee may apply to the department to allow for the delivery of alcohol to a continuing care retirement community to residents' individual living units, which may include separate cottages or townhomes, within the designated continuing care retirement community campus under 16-4-315 as long as the purchaser is verified to be a current resident of the continuing care retirement community and the person delivering is at least 18 years of age and has completed the responsible server and sales training program as provided in this section. No application fee is required.

History: En. Sec. 5, Ch. 412, L. 2011; amd. Sec. 10, Ch. 336, L. 2019; amd. Sec. 8, Ch. 75, L. 2025; amd. Sec. 3, Ch. 307, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 8, Ch. 75, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 3, Ch. 307, L. 2025. Amendment effective July 1, 2025.

16-4-1006. Responsible server and sales training program. (1) Subject to subsection (2), the department shall certify all server and sales training programs that include the following:

(a) effects of alcohol on the human body;

(b) information, including criminal, civil, and administrative penalties, related to 27-1-710 and this code;

(c) procedures for checking identification, including government-certified digital identification cards;

(d) procedures for gathering proper documentation that may affect the licensee's liability;

(e) training for skills to handle difficult situations and to learn evaluation techniques regarding intoxicated persons or others that pose potential liability;

(f) a final test; and

(g) a certificate of completion, which must be provided to participants who pass the final test.

(2) The department shall certify two classes of training programs based on the nature of employment of the individual as follows:

(a) programs for employees of licensed locations that provide for on-premises consumption; and

(b) programs for employees of licensees that only provide for off-premises consumption. A training program under this subsection (2)(b) must be completed within at least half of the time for programs under subsection (2)(a).

(3) The department may not provide a responsible server and sales training program.

History: En. Sec. 6, Ch. 412, L. 2011; amd. Sec. 1, Ch. 107, L. 2025; amd. Sec. 1, Ch. 111, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 107, L. 2025. Amendment effective January 1, 2026.

See 2025 Session Law for amendment made by sec. 1, Ch. 111, L. 2025. Amendment effective October 1, 2025.

16-4-1007. Jurisdiction. The implementation and enforcement of any mandatory server, sales, and delivery training programs in this state is under the exclusive authority and jurisdiction of the department.

History: En. Sec. 7, Ch. 412, L. 2011; amd. Sec. 9, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 9, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1008. Penalty. (1) A licensee found as a result of a routine check for compliance with 16-3-301, 16-6-304, 16-6-305, or 16-4-307 to be out of compliance with 16-4-1005 shall pay a $50 penalty for a first offense, a $200 penalty for a second offense, and a $350 penalty for a third offense in a 3-year period. The fine must be paid to the department and deposited in the enterprise fund to the credit of the department for administration of this part.

(2) The department shall consider the following as mitigating circumstances before taking an action pursuant to 16-4-406 against a licensee who is not in compliance with the provisions of this part:

(a) the licensee's prior violation history;

(b) the licensee's good faith effort to prevent a violation;

(c) the existence of written policies governing employee conduct; and

(d) whether the evidence of a violation was based solely on the investigating authority creating an opportunity for the violation rather than on complaints received or observed misconduct.

History: En. Sec. 8, Ch. 412, L. 2011; amd. Sec. 10, Ch. 75, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 10, Ch. 75, L. 2025. Amendment effective January 1, 2026.

16-4-1009. Rulemaking. The department shall adopt rules to implement the provisions of this part.

History: En. Sec. 9, Ch. 412, L. 2011.

16-4-1010. *(Effective January 1, 2026)* **Delivery training program — rulemaking.** (1) The department shall certify all delivery training programs that include the following:

(a) methods to identify and prevent sales to underage or intoxicated persons;

(b) strategies used by underage persons to obtain alcohol;

(c) acceptable forms of identification and procedures for checking identification;

(d) actions that can be taken to prevent an alcohol-related incident from occurring; and

(e) other requirements adopted by the department supported by statute or rule relating to the delivery of alcoholic beverages.

(2) On receipt of a proposed delivery training program from the holder of a third-party alcohol delivery license, the department has 30 business days to approve, deny, or request modifications to the proposed training program.

(3) The department may adopt rules to implement this section.

History: En. Sec. 11, Ch. 75, L. 2025.

Compiler's Comments

Effective Date: Section 13, Ch. 75, L. 2025, provided: "[This act] is effective January 1, 2026."

Part 11
Direct Shipment Endorsements — Table Wine

16-4-1101. Direct shipment endorsement for wineries — definition. (1) A winery licensed or registered in Montana under 16-4-107 may sell and ship under a direct shipment endorsement up to 18 9-liter cases of table wine annually to an individual in Montana who is at least 21 years of age for the individual's personal use and not for resale.

(2) The shipment of table wine directly to an individual in Montana from a winery that does not possess a current direct shipment endorsement is prohibited, and penalties may be assessed as provided in 16-4-1103.

(3) The shipment of table wine directly to an individual in Montana under a direct shipment endorsement that is not conspicuously labeled as required under 16-4-1102(2) is prohibited and subject to penalties as provided in 16-4-1103.

(4) For the purposes of this part, a "direct shipment endorsement" is permission issued by the department to a winery licensed or registered pursuant to 16-4-107 under which the winery is allowed to sell and ship table wine directly to an individual in Montana.

History: En. Sec. 1, Ch. 184, L. 2013.

16-4-1102. Requirements for direct shipment endorsements — fee — labeling — taxes — recordkeeping. (1) A winery licensed or registered under 16-4-107 shall before shipping table wine directly to an individual in Montana:

(a) remit an annual direct shipment endorsement fee of $50;

(b) submit to the department a written statement acknowledging that the winery will contract only with common carriers that agree that any delivery of table wine will be made only to an individual in Montana who is at least 21 years of age and who signs a form acknowledging receipt of the table wine; and

(c) receive from the department a direct shipment endorsement.

(2) A shipment of table wine under this part must be conspicuously labeled with the words "Contains Alcohol: Signature of Person Age 21 or Older Required for Delivery".

(3) (a) In addition to maintaining records required under 16-3-411 or 16-4-107, a winery with a direct shipment endorsement shall maintain records of any sales or shipments to an individual in Montana.

(b) The winery shall electronically file a wine tax return and pay the tax required under 16-1-411. The information reported to the department must include the names and addresses of the individual to whom the table wine was shipped and any other information that the department determines is necessary to verify that direct shipment of table wine conforms to the requirements of Title 16. Failure to pay taxes or file the information required in this subsection (3)(b) subjects the winery holding the direct shipment endorsement to the penalties and interest provided for in 15-1-216.

(4) A winery with a direct shipment endorsement shall allow the department to perform an audit of the record of shipments made under 16-4-1101. The shipment records must be retained for 3 years.

(5) If a winery with a direct shipment endorsement uses a bonded wine warehouse to fill table wine orders shipped to an individual in Montana, the winery shall provide written notice to the department of the name and the address of the bonded wine warehouse. The winery is responsible for compliance with this part.

History: **En. Sec. 2, Ch. 184, L. 2013; amd. Sec. 3, Ch. 29, L. 2019.**

16-4-1103. Enforcement — penalty — rulemaking. (1) Subject to a right to a hearing and the appeal process provided by the Montana Administrative Procedure Act in Title 2, chapter 4, the department may enforce the requirements of this part by suspending or revoking the direct shipment endorsement or imposing a civil penalty not to exceed $1,500.

(2) A winery that has a direct shipment endorsement is considered to have consented to the jurisdiction of the department or any other state agency and the Montana courts concerning enforcement of this part and related rules or regulations.

(3) The owner of a winery is guilty of a misdemeanor if the winery makes a direct shipment without having a direct shipment endorsement.

(4) The department may adopt rules to implement this part.

History: **En. Sec. 3, Ch. 184, L. 2013.**

CHAPTER 5
IDENTIFICATION CARDS
(Repealed)

Part 1 — Application for Card (Repealed)

Part 1
Application for Card
(Repealed)

16-5-101. Repealed. Sec. 2, Ch. 26, L. 1979.

History: **En. Sec. 1, Ch. 190, L. 1957; amd. Sec. 8, Ch. 240, L. 1971; amd. Sec. 9, Ch. 94, L. 1973; Sec. 4-506, R.C.M. 1947; redes. 4-5-101 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-5-101.**

16-5-102. Repealed. Sec. 2, Ch. 26, L. 1979.

History: **En. Sec. 2, Ch. 190, L. 1957; Sec. 4-507, R.C.M. 1947; amd. and redes. 4-5-102 by Sec. 106, Ch. 387, L. 1975; R.C.M. 1947, 4-5-102.**

16-5-103. Repealed. Sec. 2, Ch. 26, L. 1979.

History: **En. Sec. 3, Ch. 190, L. 1957; Sec. 4-508, R.C.M. 1947; amd. and redes. 4-5-103 by Sec. 107, Ch. 387, L. 1975; R.C.M. 1947, 4-5-103.**

16-5-104. Repealed. Sec. 2, Ch. 26, L. 1979.

History: **En. Sec. 4, Ch. 190, L. 1957; Sec. 4-509, R.C.M. 1947; amd. and redes. 4-5-104 by Sec. 108, Ch. 387, L. 1975; R.C.M. 1947, 4-5-104.**

16-5-105. Repealed. Sec. 2, Ch. 26, L. 1979.

History: En. Sec. 5, Ch. 190, L. 1957; amd. Sec. 1, Ch. 272, L. 1973; Sec. 4-510, R.C.M. 1947; amd. and redes. 4-5-105 by Sec. 109, Ch. 387, L. 1975; amd. Sec. 13, Ch. 496, L. 1977; R.C.M. 1947, 4-5-105.

16-5-106. Repealed. Sec. 2, Ch. 26, L. 1979.

History: En. Sec. 7, Ch. 190, L. 1957; Sec. 4-512, R.C.M. 1947; redes. 4-5-106 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-5-106.

CHAPTER 6
ENFORCEMENT

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Part 1
Investigations

16-6-101. Employment of investigators and prosecuting officers. (1) The department of justice may appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may require.

(2) When requested by the department, the department of justice shall:

(a) investigate the character of an applicant applying for the issuance or transfer of an alcoholic beverage license and, if applicable, the suitability of a premises or proposed premises to be used in connection with an alcoholic beverage license;

(b) investigate all matters relating to the purchase, sale, importation, exportation, possession, and delivery of alcoholic beverages; and

(c) serve as a liaison to local law enforcement authorities in matters relating to alcoholic beverage law enforcement.

History: En. Sec. 90, Ch. 105, L. 1933; re-en. Sec. 2815.150, R.C.M. 1935; Sec. 4-225, R.C.M. 1947; amd. and redes. 4-6-201 by Sec. 39, Ch. 387, L. 1975; R.C.M. 1947, 4-6-201; amd. Sec. 10, Ch. 414, L. 1993; amd. Sec. 1, Ch. 312, L. 2023.

16-6-102. Search warrants. Upon information on oath by a department of justice investigator appointed under this code or by a peace officer showing reasonable cause to believe that alcoholic beverages are unlawfully kept, or kept for unlawful purposes, in any premises, a court may issue a warrant to authorize the investigator or peace officer or any other person named in the warrant to enter and search the entire premises, including to break open any door, lock, fastening, closet, cupboard, box, or other receptacle on the premises that might contain alcoholic beverages.

History: En. Sec. 74, Ch. 105, L. 1933; re-en. Sec. 2815.133, R.C.M. 1935; Sec. 4-208, R.C.M. 1947; amd. and redes. 4-6-203 by Sec. 25, Ch. 387, L. 1975; R.C.M. 1947, 4-6-203; amd. Sec. 11, Ch. 414, L. 1993.

Cross-References

Unreasonable searches and seizures, Art. II, sec. 11, Mont. Const.

Searches and seizures generally, Title 46, ch. 5.

16-6-103. Examination of licensee's or agency liquor store premises and carriers' cars and aircraft — access control systems permitted — rulemaking. (1) The department of justice or its representative or a peace officer may at any time examine the premises of a licensee or agency liquor store to determine whether the laws of Montana and the rules of the department or the department of justice are being complied with and also may inspect cars or aircraft of any common carrier system licensed under this code.

(2) (a) Nothing in subsection (1) prohibits a retail licensee who also is licensed under Title 23 from implementing an access control system that meets the requirements of this section.

(b) A retail licensee implementing an access control system shall notify the department and local law enforcement prior to the date the licensee begins using an access control system. A licensee shall also notify the department and local law enforcement when the licensee ceases to use the access control system.

(3) The department may adopt rules to implement this section.

(4) For the purposes of this section, the following definitions apply:

(a) "Access control system" means any system that temporarily restricts access to the licensed premises during business hours by locking the main entrance and requiring a person to gain access by approval of the licensee or employees of the licensee. An access control system must provide immediate access to the department or its representative or a local peace officer.

(b) "Immediate access" means that the department or its representative or a local peace officer who is identified as such is not unreasonably denied access to the premises.

History: En. Sec. 26, Ch. 84, L. 1937; Sec. 4-428, R.C.M. 1947; amd. and redes. 4-6-204 by Sec. 101, Ch. 387, L. 1975; R.C.M. 1947, 4-6-204; amd. Sec. 12, Ch. 414, L. 1993; amd. Sec. 1, Ch. 153, L. 2019; amd. Sec. 1, Ch. 129, L. 2023.

16-6-104. Unlawful alcoholic beverage — seizure — forfeiture. (1) An investigator or peace officer who finds an alcoholic beverage and who has reasonable cause to believe that the alcoholic beverage was obtained or kept by any person in violation of the provisions of this code may seize and remove the alcoholic beverage and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the alcoholic beverages are, in addition to any other penalty prescribed by this code, forfeited to the state of Montana.

(2) Any alcoholic beverage that has been shipped into Montana in violation of this code must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of alcoholic beverages.

History: (1)En. 4-6-205 by Sec. 22, Ch. 387, L. 1975; amd. Sec. 15, Ch. 496, L. 1977; Sec. 4-6-205, R.C.M. 1947; (2)En. Sec. 14, Ch. 106, L. 1933; amd. Sec. 5, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.23, R.C.M. 1935; amd. Sec. 1, Ch. 246, L. 1947; amd. Sec. 5, Ch. 166, L. 1951; amd. Sec. 1, Ch. 222, L. 1965; Sec. 4-318, R.C.M. 1947; amd. and redes. 4-4-103 by Sec. 56, Ch. 387, L. 1975; Sec. 4-4-103, R.C.M. 1947; R.C.M. 1947, 4-4-103(part), 4-6-205; amd. Sec. 3, Ch. 47, L. 1983; amd. Sec. 33, Ch. 68, L. 1987; amd. Sec. 11, Ch. 501, L. 2007; amd. Sec. 5, Ch. 516, L. 2007; amd. Sec. 2, Ch. 312, L. 2023.

Cross-References

Procedure in regard to seized property, Title 46, ch. 5, part 3.

16-6-105. Seizure and forfeiture of alcoholic beverage and conveyance. Whenever an investigator or any peace officer in making or attempting to make a search under and in pursuance of authority of law finds in any motor vehicle, vessel, boat, canoe, or conveyance of any description an alcoholic beverage that is unlawfully kept or had or kept or held for unlawful purposes contrary to the provisions of this code, the investigator or peace officer may seize the alcoholic beverage and packages in which the alcoholic beverage is contained and the motor vehicle, vessel, boat, canoe, or conveyance in which the alcoholic beverage is found. Upon the conviction of the occupant or person in charge of the motor vehicle, vessel, boat, canoe, or conveyance, or of any other person, for having or keeping the alcoholic beverages contrary to any of the provisions of this code in any vehicle, vessel, boat, canoe, or conveyance, the court in which the person is convicted may, in addition to the sentence imposed under authority of law, declare the alcoholic beverage or any part seized and the package in which the alcoholic beverage is contained to be forfeited to the state of Montana. The court may in and by decree further declare the motor vehicle, vessel, boat, canoe, or conveyance seized to be forfeited to the state of Montana.

History: **En. Sec. 75, Ch. 105, L. 1933; re-en. Sec. 2815.134, R.C.M. 1935; Sec. 4-209, R.C.M. 1947; amd. and redes. 4-6-207 by Sec. 26, Ch. 387, L. 1975; R.C.M. 1947, 4-6-207; amd. Sec. 203, Ch. 56, L. 2009.**

Cross-References

Procedure in regard to seized property, Title 46, ch. 5, part 3.

16-6-106. When force may be used in seizure of alcoholic beverages — forfeiture — hearing. (1) If an alcoholic beverage is found by a department of justice investigator or a peace officer in any place in quantities that satisfy the investigator or peace officer that the alcoholic beverage is being kept contrary to this code, the investigator or peace officer may seize and remove, by force if necessary, any alcoholic beverage found and the packages in which the alcoholic beverage was kept and immediately turn the alcoholic beverage over to the department.

(2) The department shall determine if the seized alcoholic beverage is suitable for resale in an agency liquor store. If the department has determined that the seized alcoholic beverage is suitable for resale, the department shall commence an administrative action against the owner of the alcoholic beverage. All seized alcoholic beverages found to be unsuitable for sale in an agency liquor store must be destroyed by the department.

(3) A notice and opportunity for hearing must be given in accordance with the Montana Administrative Procedure Act, except that the notice must be published in the county where the alcoholic beverage was seized if a newspaper is published in the county.

(4) The notice must show the date and place of seizure, the name of the person or persons actually or apparently in possession or control of the alcoholic beverage if the person was present at the time of the seizure, and the reasons the department claims the right to the possession of the alcoholic beverage. The notice must also demand that all persons who claim any right to the possession of the alcoholic beverage show the nature of their claim or claims, that the hearing examiner declare the alcoholic beverage contraband, and that the hearing examiner order that the alcoholic beverage be forfeited to the state.

History: **En. Sec. 76, Ch. 105, L. 1933; re-en. Sec. 2815.135, R.C.M. 1935; amd. Sec. 1, Ch. 140, L. 1945; Sec. 4-210, R.C.M. 1947; amd. and redes. 4-6-208 by Sec. 27, Ch. 387, L. 1975; R.C.M. 1947, 4-6-208; amd. Sec. 14, Ch. 20, L. 1985; amd. Sec. 1, Ch. 83, L. 1985; amd. Sec. 13, Ch. 414, L. 1993; amd. Sec. 92, Ch. 42, L. 1997.**

16-6-107. Disposal of forfeited alcoholic beverages — report. (1) If a court or hearing examiner orders the forfeiture of alcoholic beverages under this code or if a claimant to an alcoholic beverage under 16-6-105 or 16-6-106 fails to establish the claimant's right to the alcoholic beverage, the alcoholic beverage in question and the packages in which the alcoholic beverage is kept must be delivered to the department. The department shall determine the market value of each forfeited alcoholic beverage found to be suitable for sale in agency liquor stores and shall pay the amount determined to the state treasurer after deducting any expenses incurred by the department for transporting the forfeited alcoholic beverage to the state liquor warehouse. The alcoholic beverage suitable for sale in an agency liquor store must be taken into stock by the department and sold under the provisions of this code. All alcoholic beverages found to be unsuitable for sale in agency liquor stores must be destroyed by the department.

(2) If an alcoholic beverage is seized by a peace officer, the officer shall report to the department in writing the particulars of the seizure.

History: En. Sec. 77, Ch. 105, L. 1933; re-en. Sec. 2815.136, R.C.M. 1935; Sec. 4-211, R.C.M. 1947; amd. and redes. 4-6-209 by Sec. 28, Ch. 387, L. 1975; R.C.M. 1947, 4-6-209; amd. Sec. 2, Ch. 83, L. 1985; amd. Sec. 14, Ch. 414, L. 1993; amd. Sec. 37, Ch. 530, L. 1995.

16-6-108. Inspection of carriers' records. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this code, the department or the department of justice or any person appointed by either department in writing for the purpose may inspect the freight and express books and records and all waybills, bills of lading, receipts, and documents in the possession of any railway company, express company, or other common carrier doing business within the state containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage within the state.

History: En. Sec. 78, Ch. 105, L. 1933; re-en. Sec. 2815.137, R.C.M. 1935; Sec. 4-212, R.C.M. 1947; amd. and redes. 4-6-210 by Sec. 29, Ch. 387, L. 1975; R.C.M. 1947, 4-6-210; amd. Sec. 15, Ch. 414, L. 1993.

16-6-109. Unlawful for carrier to refuse inspection of records. Every railway company, express company, or common carrier and every officer or employee of a company or common carrier who neglects or refuses to produce and submit for inspection any book, record, or document referred to in 16-6-108 when requested to do so by the department or the department of justice or by a person appointed by either department is guilty of an offense against this code.

History: En. Sec. 79, Ch. 105, L. 1933; re-en. Sec. 2815.138, R.C.M. 1935; Sec. 4-213, R.C.M. 1947; amd. and redes. 4-6-211 by Sec. 30, Ch. 387, L. 1975; R.C.M. 1947, 4-6-211; amd. Sec. 16, Ch. 414, L. 1993.

Cross-References

Penalty, 16-6-314.

Part 2
Prosecutions

16-6-201. Jurisdiction of courts. (1) As to misdemeanor actions, the district courts of this state have concurrent jurisdiction with justice of the peace courts in all prosecutions under the Montana Alcoholic Beverage Code described in 16-1-101.

(2) The jurisdiction provided for in subsection (1) is in addition to the jurisdiction of:

(a) justices' courts, as provided in 3-10-303;

(b) municipal courts, as provided in 3-6-103; and

(c) city courts, as provided in 3-11-102.

History: En. Sec. 48, Ch. 106, L. 1933; amd. Sec. 16, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.47, R.C.M. 1935; amd. Sec. 9, Ch. 166, L. 1951; Sec. 4-344, R.C.M. 1947; amd. and redes. 4-6-301 by Sec. 70, Ch. 387, L. 1975; R.C.M. 1947, 4-6-301; amd. Sec. 1, Ch. 49, L. 2007.

16-6-202. Appeal. An appeal shall lie from any conviction or order made in the prosecution of any offense against any of the provisions of this code, and the practice and procedure on any appeal from any such conviction or order and all proceedings thereon shall be governed by the law applicable to appeal in criminal cases.

History: En. Sec. 89, Ch. 105, L. 1933; re-en. Sec. 2815.149, R.C.M. 1935; Sec. 4-224, R.C.M. 1947; amd. and redes. 4-6-302 by Sec. 38, Ch. 387, L. 1975; R.C.M. 1947, 4-6-302.

Cross-References

Independent tax appeal procedures to be provided, Art. VIII, sec. 7, Mont. Const.

Criminal appeals and postconviction hearings, Title 46, ch. 20, 21.

16-6-203. Description of offense. In describing the offense respecting the sale or keeping for sale or other disposal of alcoholic beverages or the having, keeping, giving, purchasing, or consumption of alcoholic beverages in any information, summons, conviction, warrant, or proceeding under this code, it shall be sufficient to state simply the sale or keeping for sale or disposal, having, keeping, giving, purchasing, or consumption of alcoholic beverages, without stating:

(1) the name or kind of such alcoholic beverage or the price thereof;

(2) the name of any person to whom it was sold or disposed of or by whom it was taken or consumed or from whom it was purchased or received; or

(3) the quantity of alcoholic beverage, except in the case of offenses where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity.

History: En. Sec. 80, Ch. 105, L. 1933; re-en. Sec. 2815.139, R.C.M. 1935; Sec. 4-214, R.C.M. 1947; amd. and redes. 4-6-303 by Sec. 31, Ch. 387, L. 1975; R.C.M. 1947, 4-6-303.

Cross-References

Complaints, indictments, and informations generally, Title 46, ch. 11.

16-6-204. Defense need not be negatived. The description of any offense under this code, in the words of this code or in any words of like effect, shall be sufficient in law; and any exception, exemption, provision, excuse, or qualification, whether it occurs by way of proviso or in the description of the offense in this code, may be proved by the defendant but need not be specified or negatived in the information or complaint; but if it is so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

History: En. Sec. 81, Ch. 105, L. 1933; re-en. Sec. 2815.140, R.C.M. 1935; Sec. 4-215, R.C.M. 1947; amd. and redes. 4-6-304 by Sec. 32, Ch. 387, L. 1975; R.C.M. 1947, 4-6-304.

16-6-205. Sufficiency of evidence. In any prosecution under this code for the sale or keeping for sale or other disposal of alcoholic beverages or the having, keeping, giving, purchasing, or consuming of alcoholic beverages, it is not necessary that any witness testify to the precise description or quantity of the alcoholic beverages sold, disposed of, kept, had, given, purchased, or consumed or the precise consideration, if any, received for the alcoholic beverages. It is also unnecessary to testify to the fact of the sale or other disposal having taken place with the witness's participation or to the witness's own personal or certain knowledge. However, a conviction may be based upon circumstantial evidence reasonably tending to establish the guilt of the accused beyond a reasonable doubt.

History: En. Sec. 82, Ch. 105, L. 1933; re-en. Sec. 2815.141, R.C.M. 1935; Sec. 4-216, R.C.M. 1947; amd. and redes. 4-6-305 by Sec. 33, Ch. 387, L. 1975; R.C.M. 1947, 4-6-305; amd. Sec. 204, Ch. 56, L. 2009.

Cross-References

Montana evidence statutes, Title 26, ch. 1, 2.

16-6-206. Proof of violation. In proving the sale, disposal, gift, or purchase, gratuitous or otherwise, or consumption of an alcoholic beverage, it shall not be necessary in any prosecution to show that any money actually passed or any alcoholic beverage was actually consumed if the court hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift, or purchase actually took place or that any consumption of an alcoholic beverage was about to take place. Proof of consumption or intended consumption of an alcoholic beverage on premises on which such consumption is prohibited by some person not authorized to consume an alcoholic beverage thereon shall be evidence that such alcoholic beverage was sold, given to, or purchased by the person consuming or being about to consume or carrying away the same, as against the occupant of the premises.

History: En. Sec. 83, Ch. 105, L. 1933; re-en. Sec. 2815.142, R.C.M. 1935; Sec. 4-217, R.C.M. 1947; amd. and redes. 4-6-306 by Sec. 34, Ch. 387, L. 1975; R.C.M. 1947, 4-6-306.

16-6-207. Analyst's report as prima facie evidence of contents. In any prosecution under this code or the rules adopted to implement this code, production by a police officer, constable, inspector, or peace officer of a certificate or report signed or purporting to be signed by a United States or state analyst as to the analysis or ingredients of any alcoholic beverage or other fluid or any preparation, compound, or substance, the certificate or report is prima facie evidence of the facts stated in the certificate or report and of the authority of the person giving or making the certificate or report without any proof of appointment or signature.

History: En. Sec. 84, Ch. 105, L. 1933; re-en. Sec. 2815.143, R.C.M. 1935; Sec. 4-218, R.C.M. 1947; amd. and redes. 4-6-307 by Sec. 35, Ch. 387, L. 1975; R.C.M. 1947, 4-6-307; amd. Sec. 205, Ch. 56, L. 2009.

16-6-208. Inference of intoxicating beverage. The court trying a case shall, in the absence of proof to the contrary, be at liberty to infer that the alcoholic beverage in question is intoxicating from the fact that a witness described it as intoxicating or by a name which is commonly applied to an intoxicating beverage.

History: En. Sec. 85, Ch. 105, L. 1933; re-en. Sec. 2815.144, R.C.M. 1935; Sec. 4-219, R.C.M. 1947; amd. and redes. 4-6-308 by Sec. 36, Ch. 387, L. 1975; R.C.M. 1947, 4-6-308.

Cross-References

Definition and requisites of inference, 26-1-501, 26-1-502.

16-6-209. Inferences of fact from evidence found. Upon the hearing of any charge of selling or purchasing an alcoholic beverage or of unlawfully having or keeping an alcoholic beverage contrary to any of the provisions of this code, the court trying the case may draw inferences of fact from the kind and quantity of alcoholic beverage found in the possession of the person accused or in any building, premises, vehicle, motorcar, automobile, vessel, boat,

canoe, conveyance, or place occupied or controlled by the accused and from the frequency with which the alcoholic beverage is received at or in or is removed from the location and from the circumstances under which the alcoholic beverage is kept or dealt with.

History: En. Sec. 86, Ch. 105, L. 1933; re-en. Sec. 2815.145, R.C.M. 1935; Sec. 4-220, R.C.M. 1947; amd. and redes. 4-6-309 by Sec. 37, Ch. 387, L. 1975; R.C.M. 1947, 4-6-309; amd. Sec. 206, Ch. 56, L. 2009.

Cross-References

Definition and requisites of inference, 26-1-501, 26-1-502.

Part 3
Miscellaneous Prohibitions and Penalties

16-6-301. Transfer, sale, possession, and manufacture of alcoholic beverages — when unlawful. (1) Except as provided by this code, a person or the person's agents or employees may not:

(a) expose or keep an alcoholic beverage for sale;

(b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic beverage; or

(c) in consideration of the purchase or transfer of any property or for any other consideration or at the time of the transfer of any property, give to any other person an alcoholic beverage.

(2) A person may not have or keep any alcoholic beverage that has not been purchased within the state of Montana.

(3) This code does not prohibit:

(a) a person entering this state from another state or foreign country from having in the person's actual physical possession an amount not to exceed 3 gallons of alcoholic beverage that was purchased in another state or foreign country;

(b) possession of beer produced for personal or family use and not intended for sale that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer, for personal or family use, on premises other than those of the person brewing the beer;

(c) possession of beer purchased from an out-of-state brewery if the person possessing the beer holds a connoisseur's license as provided for in 16-4-901 or possession of table wine purchased from a winery that has a direct shipment endorsement as provided in 16-4-1101;

(d) possession of alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the manufacture of those alcoholic beverages;

(e) possession of proprietary or patent medicines or of any extracts, essences, tinctures, or preparations if the possession is authorized by this code;

(f) possession by a sheriff or bailiff of alcoholic beverages seized under execution or other judicial or extrajudicial process or sales under executions or other judicial or extrajudicial process to the department or a licensee;

(g) possession of wine produced for personal or family use and not intended for sale that meets the exemptions of 26 U.S.C. 5042(a)(2) and regulations implementing that section, including the production of wine, for personal or family use, on premises other than those of the person producing the wine; or

(h) active service members shipping personal collections of alcoholic beverages to a military base in this state.

(4) Except as provided in this code, a person or the person's agents or employees may not:

(a) attempt to purchase any alcoholic beverage;

(b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

(c) in consideration of the sale or transfer of any property or for any other consideration or at the time of the transfer of any property, take or accept from any other person any alcoholic beverage.

(5) In accordance with 27 CFR 19.51, manufacturing of liquor for personal or family consumption is prohibited.

History: (1) thru (3)En. Sec. 45, Ch. 105, L. 1933; amd. Sec. 1, Ch. 166, L. 1935; re-en. Sec. 2815.104, R.C.M. 1935; amd. Sec. 1, Ch. 66, L. 1957; Sec. 4-150, R.C.M. 1947; amd. and redes. 4-1-201 by Sec. 16, Ch. 387, L. 1975; Sec. 4-1-201, R.C.M. 1947; (4)En. Sec. 49, Ch. 105, L. 1933; re-en. Sec. 2815.108, R.C.M. 1935; Sec. 4-154, R.C.M.

1947; amd. and redes. 4-6-101 by Sec. 19, Ch. 387, L. 1975; Sec. 4-6-101, R.C.M. 1947; R.C.M. 1947, 4-1-201, 4-6-101; amd. Sec. 34, Ch. 68, L. 1987; amd. Sec. 3, Ch. 546, L. 1997; amd. Sec. 5, Ch. 543, L. 2001; amd. Sec. 12, Ch. 184, L. 2013; amd. Sec. 3, Ch. 312, L. 2023.

16-6-302. Sale of alcoholic beverage without license — sale or importation in violation of code — penalty. (1) For the purposes of this section "person" means an individual, partnership, corporation, company, firm, society, association, joint-stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a state or agency of a state.

(2) A person who has not been issued a license under this code who sells or keeps for sale in Montana any alcoholic beverage commits a criminal offense and upon conviction is punishable by a fine not to exceed $5,000 or by imprisonment in the state prison for not less than 1 or more than 5 years or by both the fine and imprisonment.

(3) A person in the business of selling alcoholic beverages in another state or country who imports or distributes alcoholic beverages in violation of this code commits a civil offense.

(4) A person convicted under subsection (3):

(a) for a first offense, must be mailed a certified letter by the department ordering that person to cease and desist any shipments of alcoholic beverages to any person in Montana;

(b) for a second offense, shall be fined a civil penalty not to exceed $5,000;

(c) for a third offense, shall be fined a civil penalty not to exceed $10,000; and

(d) for a fourth or subsequent offense, shall be fined a civil penalty not to exceed $50,000.

History: En. Sec. 18, Ch. 84, L. 1937; Sec. 4-420, R.C.M. 1947; amd. and redes. 4-4-407 by Sec. 97, Ch. 387, L. 1975; R.C.M. 1947, 4-4-407; amd. Sec. 4, Ch. 5, L. 1979; amd. Sec. 6, Ch. 543, L. 2001.

16-6-303. Sale of liquor not purchased or transferred from agency liquor store forbidden — penalty. Except as otherwise allowed under 16-3-302(5) and 16-4-213(4)(a)(iii), it is unlawful for any licensee to sell or keep for sale or have on the licensee's premises for any purpose any liquor except that purchased from an agency liquor store or transferred as allowed in 16-4-404(8). Any licensee found in possession of or selling and keeping for sale any liquor that was not purchased from an agency liquor store or transferred as allowed in 16-4-404(8) shall, upon conviction, be punished by a fine of not less than $500 or more than $1,500, by imprisonment for not less than 3 months or more than 1 year, or by both fine and imprisonment. If the department is satisfied that the liquor was knowingly sold or kept for sale within the licensed premises by the licensee or by the licensee's agents, servants, or employees, the department shall immediately revoke the license.

History: En. Sec. 17, Ch. 84, L. 1937; Sec. 4-419, R.C.M. 1947; amd. and redes. 4-6-102 by Sec. 96, Ch. 387, L. 1975; amd. Sec. 14, Ch. 496, L. 1977; R.C.M. 1947, 4-6-102; amd. Sec. 38, Ch. 530, L. 1995; amd. Sec. 5, Ch. 28, L. 2023; amd. Sec. 2, Ch. 215, L. 2025; amd. Sec. 4, Ch. 745, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 2, Ch. 215, L. 2025. Amendment effective April 17, 2025.

See 2025 Session Law for amendment made by sec. 4, Ch. 745, L. 2025. Amendment effective June 1, 2025.

Applicability: Section 4, Ch. 215, L. 2025, provided: "[This act] applies to all alcohol license transfers:

(1) filed with the department before [the effective date of this act] and that are being considered by the department as of [the effective date of this act]; or

(2) filed with the department on or after [the effective date of this act]." Effective April 17, 2025.

Cross-References

Place of imprisonment when none specified — sentence for 1 year or less, 46-18-211.

16-6-304. Providing alcoholic beverage to intoxicated person prohibited. A person, including a licensee and a licensee's agents or employees, may not sell, serve, or give an alcoholic beverage to a person who is apparently under the influence of alcohol.

History: En. Sec. 55, Ch. 105, L. 1933; re-en. Sec. 2815.114, R.C.M. 1935; Sec. 4-160, R.C.M. 1947; amd. and redes. 4-6-103 by Sec. 23, Ch. 387, L. 1975; R.C.M. 1947, 4-6-103; amd. Sec. 4, Ch. 312, L. 2023.

Cross-References

Age restriction, Art. II, sec. 14, Mont. Const.

Unlawful to sell or give alcoholic beverages — persons actually or apparently intoxicated, 16-3-301.

16-6-305. Age limit for sale or provision of alcoholic beverages — liability of provider. (1) (a) Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an

ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) A person is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person;

(b) permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or

(c) holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee.

(3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card or a government-certified digital identification card.

(4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation. *(See compiler's comments for contingent termination of certain text.)*

History: (1)En. Sec. 56, Ch. 105, L. 1933; re-en. Sec. 2815.115, R.C.M. 1935; amd. Sec. 1, Ch. 240, L. 1971; amd. Sec. 2, Ch. 94, L. 1973; Sec. 4-161, R.C.M. 1947; amd. and redes. 4-6-104 by Sec. 24, Ch. 387, L. 1975; Sec. 4-6-104, R.C.M. 1947; (2)En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec. 104, Ch. 387, L. 1975; Sec. 4-6-404, R.C.M. 1947; R.C.M. 1947, 4-6-104, 4-6-404(part); amd. Sec. 1, Ref. 74, app. Nov. 7, 1978; (3)En. Sec. 1, Ch. 26, L. 1979; amd. Sec. 4, Ch. 186, L. 1979; amd. Sec. 35, Ch. 68, L. 1987; amd. Sec. 2, Ch. 217, L. 1987; amd. Sec. 1, Ch. 448, L. 1989; amd. Sec. 2, Ch. 180, L. 2007; amd. Sec. 2, Ch. 111, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 111, L. 2025. Amendment effective October 1, 2025.

Contingent Termination Date: Section 9(2), Ch. 217, L. 1987, read: "If the United States congress repeals or removes or a final judgment invalidates the provisions of federal law that require states to raise the legal age for purchasing and possessing alcoholic beverages to 21 as a condition of full receipt of federal highway funds, the governor of Montana shall immediately certify the fact of the repeal, removal, or invalidation to the secretary of state of Montana. This act terminates on the date of such certification."

Cross-References

Age restrictions, Art. II, sec. 14, Mont. Const.

Unlawful to sell or give alcoholic beverages — persons under 21 years old, 16-3-301.

Keg registration, 16-3-321.

Penalty, 16-6-314.

Adults giving or selling alcoholic beverage to children or encouraging its use, 45-5-622, 45-5-623.

Possession of alcoholic beverages by children, 45-5-638.

16-6-306. Bottle clubs prohibited. (1) The operation of alcoholic beverage bottle clubs is prohibited by any individual or entity. A bottle club is defined as any individual or entity maintaining, operating, or leasing premises not licensed for the sale of alcoholic beverages in which alcoholic beverages are kept for consumption by members of the public or for the purpose of providing a place for consuming alcoholic beverages by members of the public for a fee or other consideration. For the purposes of this subsection, "consideration" includes but is not limited to a cover charge, the sale of food, ice, mixers, or any other fluids for alcoholic beverages, the furnishing of glassware or other containers for use in the consumption of alcoholic beverages, or the expectation of a purchase of a good or service.

(2) Nothing in this section prevents the service or consumption of alcoholic beverages at private gatherings. For the purposes of this subsection, "private gathering" means an event hosted by an individual that is not open to the general public and in which no fee or consideration is charged. The term does not include an event catered by a licensed retailer.

(3) Nothing in this section prohibits a licensed on-premises retailer or concessionaire from opening and serving to patrons 21 years of age or older wine from a sealed bottle brought to the premises by the patron for on-premises consumption. This service may not constitute a violation of 16-3-301 or this section, regardless of whether the licensed retailer charges a corkage fee.

(4) The department may assess a fine of up to $500 against individuals or entities serving alcoholic beverages or allowing consumption of alcoholic beverages in violation of subsection (1) without a license or special permit.

History: **En. Sec. 1, Ch. 200, L. 1959; amd. Sec. 1, Ch. 109, L. 1963; Sec. 4-172, R.C.M. 1947; redes. 4-6-105 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-105; amd. Sec. 36, Ch. 68, L. 1987; amd. Sec. 9, Ch. 568, L. 2021.**

16-6-307. Consumption of alcoholic beverage on druggists' premises prohibited. No person within the state of Montana shall consume any alcoholic beverage on any premises where an alcoholic beverage is kept for sale by a druggist, nor shall any druggist permit any alcoholic beverage to be consumed on such premises.

History: **En. Sec. 51, Ch. 105, L. 1933; re-en. Sec. 2815.110, R.C.M. 1935; Sec. 4-156, R.C.M. 1947; amd. and redes. 4-6-106 by Sec. 20, Ch. 387, L. 1975; R.C.M. 1947, 4-6-106.**

Cross-References

Regulation of pharmacists, Title 37, ch. 7.

16-6-308. Patent medicine prohibition. From and after the date of notification under 16-1-202(3), any person within the state selling or keeping for sale any such proprietary or patent medicine, extract, essence, tincture, or preparation so prohibited shall be guilty of an offense under this code.

History: **En. Sec. 36, Ch. 105, L. 1933; re-en. Sec. 2815.95, R.C.M. 1935; Sec. 4-141, R.C.M. 1947; amd. and redes. 4-1-203 by Sec. 15, Ch. 387, L. 1975; R.C.M. 1947, 4-1-203(part).**

Cross-References

Penalty, 16-6-314.

16-6-309. Alcoholic beverages administered to institution inmates. An alcoholic beverage may not be administered by any person under 16-1-204 except to bona fide patients or inmates of the institution of which the person is in charge, and every person in charge of an institution who administers alcoholic beverages in evasion or violation of this code is guilty of an offense against this code.

History: **En. Sec. 34, Ch. 105, L. 1933; re-en. Sec. 2815.93, R.C.M. 1935; amd. Sec. 9, Ch. 154, L. 1965; Sec. 4-139, R.C.M. 1947; amd. and redes. 4-1-205 by Sec. 13, Ch. 387, L. 1975; R.C.M. 1947, 4-1-205(part); amd. Sec. 37, Ch. 68, L. 1987; amd. Sec. 207, Ch. 56, L. 2009.**

Cross-References

Penalty, 16-6-314.

Distribution to patients or inmates at state custodial institutions — misdemeanor, 53-1-103.

16-6-310. Officer or agent of corporation deemed party to offense. Where an offense against this code is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offense is committed shall prima facie be deemed to be a party to the offense so committed and shall be personally liable to the penalties prescribed for the offense as a principal offender. Nothing in this section shall relieve the corporation or the person who actually committed the offense from liability therefor.

History: **En. Sec. 72, Ch. 105, L. 1933; re-en. Sec. 2815.131, R.C.M. 1935; Sec. 4-206, R.C.M. 1947; redes. 4-6-107 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-107.**

Cross-References

Criminal liability for acts committed by or for another, Title 45, ch. 2, part 3.

16-6-311. Occupant of premises deemed party to offense. Upon proof of the fact that an offense against this code has been committed by any person in the employ of the occupant of any house, shop, room, or other premises in which the offense is committed or by any person who is suffered by the occupant to be or remain in or upon such house, shop, room, or premises or to act in any way for the occupant, the occupant shall prima facie be deemed to be a party to the offense so committed and shall be liable to the penalties prescribed for the offense as a principal offender, notwithstanding the fact that the offense was committed by a person who is not proved to have committed it under or by the direction of the occupant. Nothing in this section shall relieve the person actually committing the offense from liability therefor.

History: **En. Sec. 73, Ch. 105, L. 1933; re-en. Sec. 2815.132, R.C.M. 1935; Sec. 4-207, R.C.M. 1947; redes. 4-6-108 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-108.**

Cross-References
Criminal liability for acts committed by or for another, Title 45, ch. 2, part 3.

16-6-312. Premises where alcoholic beverages illegally sold — public nuisance. Any room, house, building, boat, vehicle, structure, or place where alcoholic beverages are knowingly manufactured, sold, or bartered in violation of this code or 45-8-111 and all property knowingly kept and used in maintaining the same is hereby declared to be a public nuisance, and any person who maintains such a nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 or more than $500 and be imprisoned not less than 30 days or more than 6 months.

History: En. Sec. 8, Ch. 30, L. 1937; Sec. 4-238, R.C.M. 1947; amd. and redes. 4-6-401 by Sec. 43, Ch. 387, L. 1975; amd. Sec. 16, Ch. 496, L. 1977; R.C.M. 1947, 4-6-401.

Cross-References
Public nuisances, Title 27, ch. 30, part 2.
Place of imprisonment when none specified — sentence for 1 year or less, 46-18-211.

16-6-313. Injunction actions. An action to enjoin any nuisance defined in this code may be brought in the name of the state of Montana by the attorney general of the state or by any county attorney. The action must be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it appears, by affidavits or otherwise, to the satisfaction of the judge that the nuisance exists, a temporary writ of injunction must be issued restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial. If a temporary injunction is sought, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the fixtures or other things used in connection with the violation of this code constituting the nuisance. A bond may not be required in instituting the proceedings. The court is not required to find that the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that alcoholic beverages may not be manufactured, sold, or bartered in the room, house, building, boat, vehicle, structure, or place or any part of those locations. Upon judgment of the court ordering the nuisance to be abated, the court may order that the room, house, building, boat, vehicle, structure, or place may not be occupied or used for 1 year. The court may permit the location to be occupied or used if the owner, lessee, tenant, or occupant gives a bond with sufficient surety, to be approved by the court making the order, in the sum of not less than $500 or more than $1,000, payable to the state of Montana and conditioned that alcoholic beverages will not be manufactured, sold, or bartered at the location and that the person will pay all fines, costs, and damages that may be assessed for any violations of this code upon the property.

History: En. Sec. 48, Ch. 106, L. 1933; amd. Sec. 16, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.49, R.C.M. 1935; Sec. 4-346, R.C.M. 1947; amd. and redes. 4-6-402 by Sec. 71, Ch. 387, L. 1975; R.C.M. 1947, 4-6-402; amd. Sec. 39, Ch. 68, L. 1987; amd. Sec. 208, Ch. 56, L. 2009.

Cross-References
Injunctions generally, Title 27, ch. 19.
Action to abate public nuisance, 45-8-112.

16-6-314. Penalty for violating code — revocation of license — penalty for violation by underage person. (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as provided in 46-18-212, except as otherwise provided in this section.

(2) If a retail licensee is convicted of an offense under this code, the licensee's license must be immediately revoked or, in the discretion of the department, another sanction must be imposed as provided under 16-4-406.

(3) A person under 21 years of age who violates 16-3-301(4) or 16-6-305(3) is subject to the penalty provided in 45-5-624(2) or (3), 45-5-638(3) or (4), or 45-5-639(3) or (4). *(See compiler's comments for contingent termination of certain text.)*

History: En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec. 104, Ch. 387, L. 1975; R.C.M. 1947, 4-6-404(part); amd. Sec. 5, Ch. 186, L. 1979; amd. Sec. 2, Ch. 105, L. 1985; amd. Sec. 3, Ch. 217, L. 1987; amd. Sec. 22, Ch. 83, L. 1989; amd. Sec. 1, Ch. 481, L. 1995; amd. Sec. 12, Ch. 501, L. 2007; amd. Sec. 6, Ch. 516, L. 2007; amd. Sec. 14, Ch. 591, L. 2023; amd. Sec. 5, Ch. 155, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 155, L. 2025. Amendment effective October 1, 2025.

Contingent Termination Date: Section 9(2), Ch. 217, L. 1987, read: "If the United States congress repeals or removes or a final judgment invalidates the provisions of federal law that require states to raise the legal age for purchasing and possessing alcoholic beverages to 21 as a condition of full receipt of federal highway funds, the governor of Montana shall immediately certify the fact of the repeal, removal, or invalidation to the secretary of state of Montana. This act terminates on the date of such certification."

Cross-References

Possession of or unlawful attempt to purchase alcoholic beverage, 45-5-638.

Place of imprisonment when none specified — sentence for 1 year or less, 46-18-211.

Commutation of juvenile's sentence — transfer to juvenile correctional facility, 52-5-111.

CHAPTERS 7 THROUGH 9
RESERVED

CHAPTER 10
REGULATION OF CIGARETTE MARKETING

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Part 1
Policy and Definitions

16-10-101. Short title. This chapter shall be known, designated, and cited as "The Montana Cigarette Sales Act".

History: En. Sec. 1, Ch. 258, L. 1965; R.C.M. 1947, 51-302.

16-10-102. Declaration of policy. The advertising, offering for sale, or sale of cigarettes below cost in the retail and wholesale trades is an unfair and deceptive business practice. It is the policy of the state to promote the public welfare, and it is the purpose of this chapter to carry out that policy in the public interest, stabilize the sale of cigarettes, and maximize and protect the state revenues from this source.

History: En. Preamble, Ch. 258, L. 1965; R.C.M. 1947, 51-301; amd. Sec. 5, Ch. 5, L. 1979; amd. Sec. 3, Ch. 578, L. 1995.

Cross-References

Consumer protection and unfair trade practices, Title 30, ch. 14, parts 1 and 2.

16-10-103. Definitions. When used in this chapter, except when the context clearly indicates a different meaning, the following definitions apply:

(1) "Basic cost of cigarettes" means the list cost of cigarettes as reported to the department by the manufacturer without any deductions for discounts or taxes of any kind.

(2) "Business day" means any day other than a Sunday or a legal holiday.

(3) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of nontobacco paper or any other substance or material except tobacco.

(4) (a) The term "cost to the retailer" means the cost to the wholesaler from whom the cigarettes were purchased by the retailer plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by the retailer in the retailer's determination of costs for income tax reporting purposes for the total operation of the retailer's establishment. Cost of doing business by the retailer includes, without limitation:

(i) labor costs (including salaries of executives and officers);

(ii) rent;

(iii) depreciation;

(iv) selling costs;

(v) maintenance of equipment;

(vi) delivery costs;

(vii) all types of licenses;

(viii) all types of business taxes;

(ix) all types of insurance;

(x) all types of advertising;

(xi) any rebates, patronage dividends, or concessions, no matter how defined;

(xii) expenses prior to opening for business, including all startup costs, land acquisition costs, construction costs, costs for marketing studies, and similar expenses;

(xiii) any district, central, regional, and national administrative and operation costs and expenses; and

(xiv) all other indirect or overhead costs with respect to the operation of the business of the retailer.

(b) The cost of doing business by the retailer must be expressed as a percentage and applied to the cost to the wholesaler from whom the cigarettes were purchased.

(c) A retailer who purchases directly from a manufacturer or from any other person at or at less than or about the price normally and usually charged for purchases in wholesale quantities shall, in determining the cost to the retailer, add the cost of doing business by the wholesaler, as determined in subsection (5)(b), to the basic cost of cigarettes to the retailer, as well as the cost of doing business by the retailer.

(d) In the absence of the filing with the department of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer is presumed to be 10% of the cost to the wholesaler.

(5) (a) The term "cost to the wholesaler" means the basic cost of cigarettes purchased by the wholesaler from a manufacturer plus the cost of doing business by the wholesaler as evidenced by the standards and methods of accounting regularly employed by the wholesaler in the wholesaler's determination of costs for income tax reporting purposes for the total operation of the wholesaler's business. The cost of doing business by the wholesaler includes, without limitation:

(i) labor costs (including salaries of executives and officers);

(ii) rent;

(iii) depreciation;

(iv) selling costs;

(v) maintenance of equipment;

(vi) delivery costs;

(vii) all types of licenses;

(viii) all types of business taxes;

(ix) all types of insurance;

(x) all types of advertising;

(xi) any rebates, patronage dividends, or concessions, no matter how defined;

(xii) expenses prior to opening for business, including all startup costs, land acquisition costs, construction costs, costs for marketing studies, and similar expenses;

(xiii) any district, central, regional, and national administrative and operation costs and expenses; and

(xiv) all other indirect or overhead costs with respect to the operation of the wholesaler.

(b) The cost of doing business by a wholesaler must be expressed as a percentage and applied to the basic cost of cigarettes.

(c) In the absence of the filing with the department of proof that the department declares to be satisfactory of a lesser or higher cost of doing business by the wholesaler making the sale, the cost of doing business by the wholesaler is presumed to be 5% of the basic cost of cigarettes to the wholesaler plus cartage to the retail outlet if performed or paid for by the wholesaler. The cartage cost, in the absence of the filing with the department of satisfactory proof of a lesser or higher cost, is considered to be 3/4 of 1% of the basic cost of cigarettes to the wholesaler.

(6) "Department" means the department of revenue provided for in 2-15-1301 and, when the meaning of the context requires, includes its employees.

(7) "Manufacturer" means any person who fabricates cigarettes from raw materials for the purpose of resale.

(8) "Person" means an individual, firm, association, company, partnership, corporation, or other business entity, however formed.

(9) "Retailer" means a person who operates a store, stand, booth, concession, or other outlet for the purpose of selling cigarettes at retail.

(10) "Sale" or "sell" means any transfer of cigarettes for consideration, exchange, barter, gift, offer for sale, or distribution, in any manner or by any means.

(11) "Sell at retail", "sale at retail", or "retail sales" means any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the retailer's business, to the purchaser for consumption or use.

(12) "Sell at wholesale", "sale at wholesale", or "wholesale sales" means and includes any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(13) "Sole distributor" means a person who either causes a unique brand of cigarettes to be manufactured according to distinctive specifications and acts as the exclusive distributor of the cigarettes or is the exclusive distributor of a brand of cigarettes within the continental United States.

(14) "Wholesaler" means a person who services retail outlets by maintaining an established place of business for the purchase of cigarettes and who:

(a) purchases cigarettes from a manufacturer for the purpose of selling cigarettes to retailers; or

(b) purchases cigarettes from a sole distributor, another wholesaler, or any other person for the purpose of selling cigarettes to retailers.

History: **En. Sec. 2, Ch. 258, L. 1965; amd. Sec. 1, Ch. 130, L. 1967; amd. Sec. 16, Ch. 391, L. 1973; R.C.M. 1947, 51-303; amd. Sec. 4, Ch. 578, L. 1995.**

16-10-104. Powers of department. (1) In addition to the penalties and rights imposed and set forth in 16-10-402, the department shall enforce the provisions of this chapter.

(2) The department has the power to adopt, amend, and repeal rules necessary to enforce and administer the provisions of this chapter.

History: **En. Sec. 13, Ch. 258, L. 1965; R.C.M. 1947, 51-314(part); amd. Sec. 5, Ch. 578, L. 1995.**

Cross-References

Rulemaking under Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

16-10-105 through 16-10-109 reserved.

16-10-110. Licensure as both wholesaler and retailer allowed. This chapter does not prevent a person from being licensed as both a wholesaler and a retailer.

History: **En. Sec. 1, Ch. 578, L. 1995.**

Part 2
Sales Price of Cigarettes

16-10-201. Wholesaler-to-wholesaler sales. When one wholesaler sells cigarettes to any other wholesaler, the former may not be required to include in the selling price to the latter the cost to the wholesaler, as provided by 16-10-103, except that no such sale may be made at a price less than the basic cost of cigarettes, as defined in 16-10-103, but the latter wholesaler, upon resale to a retailer, is considered to be the wholesaler governed by the provisions of 16-10-103(5).

History: En. Sec. 4, Ch. 258, L. 1965; R.C.M. 1947, 51-305; amd. Sec. 6, Ch. 578, L. 1995.

16-10-202. Repealed. Sec. 7, Ch. 130, L. 1991.

History: En. Sec. 5, Ch. 258, L. 1965; R.C.M. 1947, 51-306.

16-10-203. Sales to meet competition permitted. (1) (a) A retailer may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at cost to the competitor as a retailer as prescribed in this chapter.

(b) Any wholesaler may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to the competitor as a wholesaler as prescribed in this chapter.

(c) The price of cigarettes advertised, offered for sale, or sold under the exceptions specified in 16-10-304 may not be considered the price of a competitor and may not be used as a basis for establishing prices below cost, and the price established at a bankruptcy sale may not be considered the price of a competitor within the purview of this section.

(2) In the absence of proof of the "price of a competitor" under this section, the "lowest cost to the retailer" or the "lowest cost to the wholesaler", determined by any "cost survey" made pursuant to 16-10-303, may be considered to be the "price of a competitor" within the meaning of this section.

History: En. Sec. 7, Ch. 258, L. 1965; R.C.M. 1947, 51-308; amd. Sec. 209, Ch. 56, L. 2009.

16-10-204. Determining cost — prices below cost — free merchandise. (1) In determining the cost to the retailer and the cost to the wholesaler, the department or a court shall receive and consider evidence tending to show that any person accused of violating the provisions of this chapter purchased cigarettes, with respect to the sale of which complaint is made, below either the cost to the retailer or the cost to the wholesaler, depending upon the status of the person accused, or upon terms or in a manner or under invoices that conceal the true cost, discounts, or terms of purchase. Further, the department or a court shall receive and consider evidence of the normal, customary, and prevailing terms and discounts in connection with other sales of a similar nature in this state.

(2) Merchandise given gratis or payment made to a retailer or wholesaler by the manufacturer of the merchandise for display, advertising, promotion purposes, any type of discount, or otherwise may not be considered in determining the cost of cigarettes to the retailer or wholesaler.

History: En. Sec. 9, Ch. 258, L. 1965; R.C.M. 1947, 51-310; amd. Sec. 7, Ch. 578, L. 1995.

16-10-205. Purchases outside ordinary trade channels. In establishing the cost of cigarettes to the retailer or wholesaler, the invoice cost of said cigarettes purchased at a forced, bankrupt, or closeout sale or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retailer or wholesaler in the quantity last purchased through the ordinary channels of trade.

History: En. Sec. 10, Ch. 258, L. 1965; R.C.M. 1947, 51-311.

Part 3
Unlawful Practices — Exceptions

16-10-301. Sales below cost. It is unlawful and a violation of this chapter:

(1) for any retailer or wholesaler to:

(a) advertise, offer to sell, or sell, at retail or wholesale, cigarettes at less than cost to a retailer or wholesaler;

(b) offer a rebate in price, give a rebate in price, offer a concession of any kind, or give a concession of any kind in connection with the sale of cigarettes that are sold by the wholesaler or retailer in the ordinary course of trade or business if the rebate or concession offered or given in connection with the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise to which the rebate or concession may lawfully be given;

(2) for any retailer to:

(a) induce or attempt to induce or procure or attempt to procure the purchase of cigarettes at a price less than the cost to the wholesaler, as defined in this chapter;

(b) induce or attempt to induce or procure or attempt to procure any rebate or concession of any kind or nature whatever in connection with the purchase of cigarettes.

History: En. Sec. 3, Ch. 258, L. 1965; R.C.M. 1947, 51-304(1), (2), (4); amd. Sec. 8, Ch. 578, L. 1995.

Cross-References

Sales to meet competition permitted, 16-10-203.

16-10-302. Illegal contracts. Any contract, expressed or implied, made by any person in violation of any of the provisions of this chapter is declared to be an illegal and void contract, and no recovery thereon shall be had.

History: En. Sec. 8, Ch. 258, L. 1965; R.C.M. 1947, 51-309.

Cross-References

Illegality in contracts, Title 28, ch. 2, part 7; 28-2-803.

16-10-303. Cost survey as evidence. When a cost survey pursuant to cost accounting practices used for income tax reporting purposes has been made by the department, a trade association, an industry group, a wholesaler, or a retailer to establish either the lowest cost to the retailer or the lowest cost to the wholesaler, or both, for the state, the cost survey is competent evidence for use in proving the cost to the person complained against within the provisions of this chapter.

History: En. Sec. 11, Ch. 258, L. 1965; R.C.M. 1947, 51-312; amd. Sec. 9, Ch. 578, L. 1995.

16-10-304. Exceptions. The provisions of this chapter shall not apply to sales at retail or sales at wholesale made:

(1) as an isolated transaction and not in the usual course of business;

(2) where cigarettes are advertised, offered for sale, or sold in bona fide clearance sales for the purpose of discontinuing trade in such cigarettes and said advertising, offer to sell, or sale shall state the reason thereof and the quantity of such cigarettes advertised, offered for sale, or sold as imperfect or damaged and said advertising, offer to sell, or sale shall state the reason therefor and the quantity of such cigarettes advertised, offered for sale, or to be sold;

(3) where cigarettes are sold upon the final liquidation of a business; or

(4) where cigarettes are advertised, offered for sale, or sold by any fiduciary or other officer acting under the order or direction of any court.

History: En. Sec. 6, Ch. 258, L. 1965; R.C.M. 1947, 51-307.

16-10-305. Repealed. Sec. 7, Ch. 130, L. 1991.

History: En. Sec. 1, Ch. 139, L. 1985.

16-10-306. Cigarette and tobacco product labels — federal requirements — penalty. (1) A person may not knowingly import into this state for sale or other distribution any package of cigarettes or tobacco product that violates any federal:

(a) tax, trademark, or copyright law; or

(b) requirement for the placement of labels, warnings, or other information, including health hazards, that must be on the container or individual package.

(2) A person may not sell or offer to sell a package of cigarettes or tobacco product or affix the tax insignia on a package of cigarettes, as provided in 16-11-113, knowing that:

(a) the package is marked as manufactured for use outside of the United States;

(b) any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package was manufactured for use outside of the United States; or

(c) a stamp, label, or decal was affixed to conceal the fact that the package was manufactured for use outside of the United States.

(3) A package of cigarettes or tobacco product found in this state that is marked for use outside of the United States is contraband and may be seized without a warrant by the department, any agent of the department, or any peace officer. Any cigarettes or tobacco products seized as contraband must be destroyed by the department.

(4) (a) The department may proceed against a person who violates this section through a civil action under the civil enforcement provisions of Title 16, chapter 10, part 4.

(b) A violation of this section is criminally punishable by a fine in an amount not to exceed $10,000.

(5) For the purposes of this section, "cigarette" has the meaning defined in 16-11-102 and "tobacco product" means all products containing tobacco for human consumption or use except cigarettes.

History: En. Sec. 1, Ch. 465, L. 1999; amd. Sec. 7, Ch. 511, L. 2005.

Part 4
Enforcement

16-10-401. Repealed. Sec. 35, Ch. 578, L. 1995.

History: En. Sec. 3, Ch. 258, L. 1965; R.C.M. 1947, 51-304(3).

16-10-402. Injunctive and other civil relief. (1) In addition to the penalty provided by 16-10-403, any person injured or any trade association that represents a person injured by any violation of this chapter may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation. If in the action a violation of this chapter is established, the court shall enjoin and restrain or otherwise prohibit the violation and, in addition, shall assess in favor of the plaintiff and against the defendant the costs of the suit and reasonable attorney fees. In the action, it is not necessary that actual damages to the plaintiff be alleged or proved, but when alleged and proved, the plaintiff in the action, in addition to injunctive relief and fees and costs of suit, is entitled to recover from the defendant the amount of actual damages sustained by the plaintiff.

(2) If injunctive relief is not sought or required, any person injured by a violation of this chapter may maintain an action for damages alone in any court of competent jurisdiction. The measure of damages in the action is the same as prescribed in subsection (1).

History: En. Sec. 12, Ch. 258, L. 1965; R.C.M. 1947, 51-313; amd. Sec. 10, Ch. 578, L. 1995.

Cross-References

Costs and attorney fees generally, Title 25, ch. 10.

Injunctions generally, Title 27, ch. 19.

16-10-403. Revocation or suspension of license — civil penalty. (1) The department may revoke or suspend the license of, impose a civil penalty not to exceed $500 on, or order any combination of revocation, suspension, and penalty to be imposed on any licensed wholesaler or retailer upon sufficient cause appearing of the violation of this chapter or upon the failure of the licensee to comply with any of the provisions of this chapter.

(2) A license may not be suspended or revoked except upon notice to the licensee and after a hearing prescribed by the department at its principal office. The department, upon a finding by it that the licensee has failed to comply with any provisions of this chapter or any rule promulgated under this chapter, shall, in the case of a first offender, suspend the license of the licensee for a period of not less than 5 or more than 20 consecutive business days, impose a civil penalty in an amount not to exceed $500, or order both the suspension and the penalty. In the case of a second or plural offender, the department shall suspend the license for a period of not less than 20 consecutive business days or more than 12 months, impose a civil penalty in an amount not to exceed $500, or order both the suspension and the penalty. In the event the department finds the offender has been guilty of willful and persistent violations, it may revoke the licensee's license and, in its discretion, may impose a civil penalty in an amount not to exceed $500.

(3) Any person whose license has been revoked may apply to the department at the expiration of 1 year for a reinstatement of the license. The license may be reinstated by the department if it appears to the satisfaction of the department that the licensee will comply with the provisions of this chapter and the rules promulgated under this chapter.

(4) A person whose license has been suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the period of the suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever. A disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, continuance, renewal, or extension of any license issued under the provisions of the cigarette tax law.

(5) Any determination by the department and any order of suspension or revocation of a license or refusal to reinstate a license after revocation is reviewable by the court in a proper case and in proceedings as provided by the procedural law of this jurisdiction.

History: En. Sec. 13, Ch. 258, L. 1965; R.C.M. 1947, 51-314(part); amd. Sec. 11, Ch. 578, L. 1995; amd. Sec. 42, Ch. 51, L. 1999.

Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.

Contested cases — notice and hearing under Montana Administrative Procedure Act, Title 2, ch. 4, part 6.

CHAPTER 11
TAXATION OF TOBACCO PRODUCTS

Part 1 — Tax on Tobacco Products

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16-11-511. Rules.
16-11-512. Construction.

Chapter Cross-References
Multistate Tax Compact, Title 15, ch. 1, part 6.

Part 1
Tax on Tobacco Products

16-11-101. Legislative intent. The legislature hereby declares that its intent in enacting 16-11-111 is to enable those who are subject to the taxes imposed by the federal tax laws to avail themselves of the deductions respecting state and local taxes specified in section 164 of the Internal Revenue Code, 26 U.S.C. 164, as amended, in computing their taxable income.

History: En. Sec. 2, Ch. 97, L. 1963; R.C.M. 1947, 84-5606.1; amd. Sec. 40, Ch. 114, L. 2003.

16-11-102. Definitions. (1) As used in this chapter, the following definitions apply, unless the context requires otherwise:

(a) "Contraband" means:

(i) any tobacco product possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of this part;

(ii) any cigarette or roll-your-own tobacco that is possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of part 4 or 5;

(iii) any cigarettes that bear trademarks that are counterfeit under state or federal trademark laws;

(iv) any cigarettes bearing false or counterfeit insignia or tax stamps from any state; or

(v) any cigarettes or tobacco products that violate 16-10-306.

(b) "Department" means the department of revenue provided for in 2-15-1301.

(c) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

(2) As used in this part, the following definitions apply, unless the context requires otherwise:

(a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(ii) tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette; or

(iii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance or the type of tobacco used in the filler and regardless of its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette described in subsection (2)(a)(i).

(b) "Controlling person" means a person who owns an equity interest of 10% or more of a business or the equivalent.

(c) "Directory" means the tobacco product directory as provided in 16-11-504.

(d) "Full face value of insignia" means the total amount of the tax levied under this part.

(e) "Insignia" or "indicia" means the impression, mark, or stamp approved by the department under the provisions of this part.

(f) "Licensed retailer" means any person, other than a wholesaler, subjobber, or tobacco product vendor, who is licensed under the provisions of this part.

(g) "Licensed subjobber" means a subjobber licensed under the provisions of this part. The person must be treated as a wholesaler.

(h) "Licensed wholesaler" means a wholesaler licensed under the provisions of this part.

(i) "Manufacturer" means any person who fabricates tobacco products from raw materials for the purpose of resale.

(j) "Manufacturer's original container" means the original master shipping case or original shipping case used by the tobacco product manufacturer to ship multipack units, such as boxes, cartons, and sleeves, to warehouse distribution points.

(k) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity.

(l) (i) "Premium cigar" means any roll of tobacco that is hand wrapped in 100% whole tobacco leaf, is not wrapped by a machine, and does not contain a filter, tip, or any characterizing nontobacco flavor.

(ii) The term does not include a cigarette.

(m) "Record" means an original document, a legible facsimile, or an electronically preserved copy.

(n) "Retailer" means a person, other than a wholesaler, who is engaged in the business of selling tobacco products to the ultimate consumer. The term includes a person who operates fewer than 10 tobacco product vending machines.

(o) "Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes.

(p) "Sale" or "sell" means any transfer of tobacco products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

(q) "Sole distributor" means a person who either causes a unique brand of tobacco products to be manufactured according to distinctive specifications and acts as the exclusive distributor of the tobacco products or is the exclusive distributor of a brand of tobacco products within the continental United States.

(r) "Subjobber" means a person who purchases from a licensed wholesaler cigarettes with the Montana cigarette tax insignia affixed and sells or offers to sell tobacco products to a licensed

retailer or tobacco product vendor. An isolated sale or exchange of cigarettes between licensed retailers does not constitute those retailers as subjobbers.

(s) "Tobacco product" means cigarettes and all other products containing tobacco that are intended for human consumption or use.

(t) (i) "Tobacco product vendor" means a person doing business in the state who purchases tobacco products through a wholesaler, subjobber, or retailer for 10 or more tobacco product vending machines that the person operates for a profit in premises or locations other than the person's own.

(ii) A tobacco product vendor must be treated as a wholesaler.

(u) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or reduction.

(v) "Wholesaler" means a person who:

(i) purchases tobacco products from a manufacturer for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers; or

(ii) purchases tobacco products from a sole distributor, another wholesaler, or any other person for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers.

History: **En. Sec. 1, Ch. 140, L. 1969; amd. Sec. 205, Ch. 516, L. 1973; amd. Sec. 1, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.2; amd. Sec. 1, Ch. 130, L. 1991; amd. Sec. 12, Ch. 578, L. 1995; amd. Sec. 8, Ch. 511, L. 2005; amd. Sec. 13, Ch. 3, L. 2019; amd. Sec. 1, Ch. 652, L. 2023.**

Cross-References

Consumer protection and unfair trade practices, Title 30, ch. 14, parts 1 and 2.

16-11-103. Powers of department. (1) The department may prescribe rules not inconsistent with the provisions of this chapter for the detailed and efficient administration of this chapter. All rules and orders promulgated must be published promptly and a copy distributed to each wholesale licensee. The department is authorized to adopt rules for the effective collection and refund of the tax imposed by this chapter.

(2) The department of revenue and the department of justice and their duly authorized agents may conduct inquiries and hearings, and any member of the department of revenue, department of justice, or any agent may administer oaths and take testimony under oath relative to the matter of inquiry. The director, the attorney general, or an authorized agent may subpoena witnesses and require the production of books, papers, and documents pertinent to the inquiry. The director, the attorney general, or an agent, after the hearing, shall make findings and issue an order in writing. The findings and order must be filed in the office of the department of revenue or the department of justice and must be open for public inspection.

(3) The department is authorized to contract with the department of justice for the investigations required under this chapter. The department may appoint additional assistants and establish an additional division of tobacco product enforcement as required to carry out the provisions of this chapter.

(4) The department and the department of justice are authorized to employ clerical and field assistants necessary to properly administer the provisions of this chapter.

(5) The department of justice may appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may require.

(6) When requested by the department of revenue, the department of justice shall:

(a) investigate all matters relating to the purchase, sale, importation, exportation, possession, and delivery of tobacco products; and

(b) serve as a liaison to local law enforcement authorities in matters relating to tobacco law enforcement.

History: **(1)Ap. p. Sec. 26, Ch. 140, L. 1969; amd. Sec. 219, Ch. 516, L. 1973; Sec. 84-5606.27, R.C.M. 1947; Ap. p. Sec. 7, Ch. 12, Ex. L. 1969; amd. Sec. 254, Ch. 516, L. 1973; Sec. 84-6807, R.C.M. 1947; (2)En. Sec. 22, Ch. 140, L. 1969; amd. Sec. 110, Ch. 405, L. 1973; Sec. 84-5606.23, R.C.M. 1947; (3)En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; Sec. 84-5606.28, R.C.M. 1947; (4)En. Sec. 29, Ch. 140, L. 1969; amd. Sec. 5, Ch. 222, L. 1971; amd. Sec. 222, Ch. 516, L. 1973; Sec. 84-5606.30, R.C.M. 1947; R.C.M. 1947, 84-5606.23, 84-5606.27, 84-5606.28(part), 84-5606.30(part), 84-6807; amd. Sec. 17, Ch. 414, L. 1993; amd. Sec. 9, Ch. 511, L. 2005.**

Cross-References

Rulemaking under Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

16-11-104. Carriers to report shipments — penalties. (1) Except as provided in subsection (3), every common carrier hauling, transporting, or shipping into or out of the state of Montana from or to any other state or country any tobacco products shall report in writing the shipments or deliveries to the department on forms furnished by the department. The reports must include the date, the person to whom the tobacco products were consigned and delivered, the quantity as shown by the bill of lading, and other information that the department may require. A carrier shall retain for 36 months all pertinent and relevant records necessary for the preparation of this report and any other information that the department may require.

(2) A common carrier who violates the provisions of subsection (1) is subject to civil penalties as determined by the department. For a first offense, a natural person shall be fined an amount not to exceed $50,000, and any other entity shall be fined an amount not to exceed $75,000. For a second or subsequent offense, a natural person shall be fined an amount not to exceed $100,000, and any other entity shall be fined an amount not to exceed $150,000.

(3) A common carrier hauling, transporting, or shipping tobacco products to a licensed wholesaler or retailer in Montana shall submit the reports described in subsection (1) to the department upon request of the department.

History: En. Sec. 19, Ch. 140, L. 1969; amd. Sec. 215, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.20; amd. Sec. 3, Ch. 207, L. 1991; amd. Sec. 10, Ch. 511, L. 2005.

16-11-105. Rulemaking authority of department of justice. The department of justice may adopt rules to implement 16-11-103, 16-11-118, 16-11-124, 16-11-141, 16-11-142, and 16-11-147.

History: En. Sec. 28, Ch. 414, L. 1993; amd. Sec. 5, Ch. 364, L. 2009.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

16-11-106. Regular and systematic solicitation of business — compliance with chapter. Every person who engages in the regular or systematic solicitation of consumers in this state to purchase tobacco products in any manner shall comply with all the requirements of this chapter and any rules adopted pursuant to this chapter.

History: En. Sec. 1, Ch. 511, L. 2005.

16-11-107. Secretary of state as process agent for unlicensed person doing business in state. Every person who engages in the regular or systematic solicitation of consumers in this state to purchase tobacco products in any manner without a license as required by this chapter must, by so doing, be considered to appoint the secretary of state as its agent upon whom all lawful process may be served. The secretary of state may be served with process issued within this state in any action or proceeding against the unlicensed person arising out of any contract or transaction. The regular and systematic solicitation of consumers in this state is considered to signify the person's assent to personal jurisdiction in the courts of this state and agreement that service of process on the secretary of state will have the same legal effect and validity as personal service of process upon the person in this state.

History: En. Sec. 2, Ch. 511, L. 2005.

16-11-108. Service of process. (1) Service of process pursuant to 16-11-107 must be made by delivering to and leaving with the secretary of state's office two copies of the summons and complaint and any fees required by law. The secretary of state shall, in a timely manner, mail by registered or certified mail one of the copies to the defendant at its last-known business address. The secretary of state shall keep the other copy as a record of the process served upon the secretary of state. The service of process is sufficient if a notice of service and a copy of the process are sent within 10 days after service by certified mail by the plaintiff's attorney to the defendant at its last-known principal place of business and if the defendant's receipt or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing compliance with this section are filed with the clerk of the court in which the action is pending on or before the date the defendant is required to appear or within a further time that the court may allow.

(2) Service of process in any action, suit, or proceeding, in addition to being made in the manner provided in subsection (1), must be considered valid if:

(a) served upon any person within this state on behalf of the person soliciting business who is:

(i) soliciting orders for sale of tobacco products;

(ii) making any contract for sale of tobacco products or delivering any tobacco products; or

(iii) collecting or receiving any money for tobacco products;

(b) a copy of the process is sent within 10 days after service, by certified mail, by the plaintiff's attorney to the defendant at the last-known principal place of business of the defendant; and

(c) the defendant's receipt or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing compliance with this subsection (2) are filed with the clerk of the court in which the action is pending on or before the date the defendant is required to appear or within a further time that the court may allow.

(3) A plaintiff or complainant is not entitled to a judgment by default under this section until 30 days after the date of the filing of the affidavit of compliance.

(4) This section does not limit or abridge the right to serve any process, notice, or demand upon any tobacco product seller in any other manner now or later permitted by law.

History: En. Sec. 3, Ch. 511, L. 2005.

16-11-109 reserved.

16-11-110. Repealed. Sec. 2, Ch. 27, L. 2015.

History: En. Sec. 2, Ch. 572, L. 1995; amd. Sec. 1, Ch. 6, L. 1997; Sec. 15-30-211, MCA 1995; redes. 16-11-110 by Sec. 2, Ch. 6, L. 1997.

16-11-111. Cigarette, tobacco products, and moist snuff sales tax — exemption for sale to tribal member. (1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is $1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20 the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit.

(5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations.

(6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount

of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.

(7) There must be collected and paid to the state of Montana a tax of 50% of the wholesale price, to the wholesaler, of all tobacco products other than cigarettes, premium cigars, and moist snuff. The tax on a premium cigar is the lesser of 50% of the wholesale price or 35 cents a premium cigar. The tax on moist snuff is 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax.

(8) The tax imposed by subsection (7) must be precollected and paid by a wholesaler to the department upon sale to a Montana retailer. A wholesaler who fails to report or pay the tax required by this part must be assessed penalty and interest as provided in 15-1-216.

(9) A retailer who purchases tobacco products for resale on which the tobacco products tax has not been collected and paid to the department shall comply with all the provisions of this part and the rules adopted to implement this part as if it were a wholesaler.

(10) A retailer must assume that the tobacco products tax has not been collected and paid to the department in the absence of a statement on the retailer's invoice or sales slip for the tobacco products that states that the applicable Montana tobacco products tax is included in the total billing cost.

History: **En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(2) thru (4); amd. Sec. 1, Ch. 267, L. 1981; amd. Sec. 1, Ch. 608, L. 1983; amd. Sec. 1, Ch. 450, L. 1985; amd. Sec. 1, Ch. 704, L. 1985; amd. Sec. 2, Ch. 681, L. 1989; amd. Sec. 2, Ch. 130, L. 1991; amd. Sec. 25, Ch. 15, Sp. L. July 1992; amd. Sec. 8, Ch. 352, L. 1993; amd. Sec. 13, Ch. 578, L. 1995; amd. Sec. 1, Ch. 56, L. 2001; amd. Sec. 49, Ch. 544, L. 2003; amd. Sec. 2, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 11, Ch. 511, L. 2005; amd. Sec. 2, Ch. 652, L. 2023.**

Cross-References

Intent of this section, 16-11-101.
Disposition of taxes, 16-11-119.
Definitions, 16-11-155.

16-11-112. Tax on ultimate consumer. All taxes paid pursuant to 16-11-111 shall be conclusively presumed to be direct taxes on the retail consumer precollected for the purpose of convenience and facility only. The full face value of the insignia or tax shall be added to the cost of the cigarettes and recovered from the ultimate consumer or user. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of the cigarettes and recovered from the ultimate consumer or user. Any person selling cigarettes at retail shall state or separately display in the licensed premises a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax.

History: **Ap. p. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; Sec. 84-5606, R.C.M. 1947; Ap. p. Sec. 9, Ch. 140, L. 1969; Sec. 84-5606.10, R.C.M. 1947; R.C.M. 1947, 84-5606(1), 84-5606.10(part).**

16-11-113. Tax insignia. (1) Except as provided in this section, the wholesaler of any cigarettes shall cause to be securely affixed to the cigarettes the required insignia denoting the applicable tax.

(2) The insignia must be properly applied prior to sale, under regulations that the department may prescribe.

(3) Retailers licensed under this part may buy, sell, or have in their possession only cigarettes that have on each package the insignia provided for in this part. The insignia provided for in this part may be sold only to and must be affixed only by licensed wholesalers.

(4) If any cigarettes without the insignia affixed are found in the place of business of any unlicensed wholesaler, retailer, or other person, the presumption is that the cigarettes are kept in that place of business in violation of the provisions of this part.

(5) This section does not apply to a wholesaler who has cigarettes in possession that are either to be shipped or consigned to an Indian tribe that has entered into a cooperative agreement with the state or to a military reservation.

History: (1) thru (3)En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; Sec. 84-5606, R.C.M. 1947; (4)En. Sec. 6, Ch. 140, L. 1969; Sec. 84-5606.7, R.C.M. 1947; (5)En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; Sec. 84-5606.28, R.C.M. 1947; R.C.M. 1947, 84-5606(part), 84-5606.7, 84-5606.28(part); amd. Sec. 1, Ch. 382, L. 1979; amd. Sec. 3, Ch. 130, L. 1991; amd. Sec. 14, Ch. 578, L. 1995.

16-11-114. Insignia discount. (1) Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

(a) 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month;

(b) 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and

(c) 0.45% for purchases in excess of 5,160 cartons in any calendar month.

(2) The taxes for tobacco products, other than cigarettes, that are paid by the wholesaler must be paid to the department in full less a 1.5% defrayment for the wholesaler's collection and administrative expenses and must, in accordance with the provisions of 17-2-124, be deposited by the department in the state general fund except as provided in 16-11-119. Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable.

History: En. Sec. 11, Ch. 140, L. 1969; R.C.M. 1947, 84-5606.12; amd. Sec. 2, Ch. 267, L. 1981; amd. Sec. 1, Ch. 600, L. 1983; amd. Sec. 15, Ch. 578, L. 1995; amd. Sec. 50, Ch. 544, L. 2003; amd. Sec. 3, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 12, Ch. 511, L. 2005; amd. Sec. 23, Ch. 475, L. 2007.

16-11-115. Tax meter machine — tax stamp-applying machine — purchase of stamps. (1) The department may authorize any wholesaler of cigarettes licensed under this part to use a tax meter machine to imprint an insignia upon each package of cigarettes imported, sold, or delivered in this state. The insignia must be one approved by the department. Each package of cigarettes imported into or delivered or sold in this state must be marked with the proper insignia of the tax-stamping meter, and any original package of cigarettes so marked may be lawfully possessed and sold within the state by any wholesaler licensed under this part. The department shall supervise and check the operation of the tax meter machines. Before using the machine, the operator of the machine shall take the machine's meter to the county treasurer of the county in which the machine is operated. The county treasurer shall set the meter for the number of packages specified and required by the operator. Prior to setting the meter, the county treasurer shall charge the operator the amount of money proper for the setting, less the expense defrayment provided for in 16-11-114. The county treasurer shall collect this amount in advance unless the department has allowed the purchaser credit as provided in 16-11-117. The county treasurer shall report to the department on forms prescribed by it the name of the licensed wholesaler and the number of packages for which the meter was set and shall forward to the department any amounts collected from the licensee.

(2) (a) The department may authorize a licensed wholesaler to affix tax stamps to packages of cigarettes with a heat-applied machine approved by the department. The department shall supervise and check the operation of the stamp-applying machine.

(b) Tax stamps applied as provided in this subsection must be purchased from the department, and payment for the stamps must accompany the order unless the department has allowed the purchaser to delay payment as provided in 16-11-117.

History: En. Sec. 13, Ch. 140, L. 1969; amd. Sec. 210, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.13; amd. Sec. 2, Ch. 600, L. 1983; amd. Sec. 4, Ch. 130, L. 1991; amd. Sec. 16, Ch. 578, L. 1995.

16-11-116. Resale of insignia prohibited — rebate. A wholesaler may not resell to any other wholesaler any insignia purchased from the department. A wholesaler who has on hand any meter settings or tax insignia at the time of discontinuing the business of selling cigarettes may apply to the department and be paid the face value of the meter settings or tax insignia less the amount of the expense defrayment allowed by 16-11-114.

History: En. Sec. 13, Ch. 140, L. 1969; amd. Sec. 211, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.14; amd. Sec. 5, Ch. 130, L. 1991; amd. Sec. 17, Ch. 578, L. 1995.

16-11-117. When payment for insignia due. The department may permit a licensed wholesaler to pay for the insignia purchased, or affixation of insignia, within 30 days. To be eligible to defer payment, a wholesaler shall file with the department either a surety bond or other cash security, as approved by the department, for the amount that the department may fix, but not in excess of an amount equal to the maximum insignia purchases incurred for any 30-day period in the previous calendar year. Any newly licensed wholesaler shall pay on a cash basis for 1 complete calendar year, after which the department may permit the wholesaler 30 days to pay for the purchase or affixation of insignia and shall require a bond or security as provided in this section.

History: En. Sec. 14, Ch. 140, L. 1969; amd. Sec. 212, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.15; amd. Sec. 18, Ch. 578, L. 1995.

16-11-118. Records of wholesalers, subjobbers, tobacco product vendors, and retailers. (1) All wholesalers and subjobbers shall keep for 3 years all:

(a) invoices of tobacco products purchased, imported, or sold;

(b) all receipts issued and insignia purchased; and

(c) an accurate record of all sales of tobacco products, showing the name and address of each purchaser, the date of sale, the quantity of each kind sold, the name of any carrier, the shipping point, and the destination.

(2) All retailers and tobacco product vendors shall keep for 3 years all invoices of tobacco products purchased and received, showing the date of each purchase, the brand purchased, the quantity of each brand purchased, and an accurate record of the total sales of tobacco products.

(3) A wholesaler, retailer, subjobber, or tobacco product vendor shall permit the department and the department of justice and their assistants, authorized agents, or representatives to examine all tobacco products, invoices, receipts, books, paper, memoranda, and records as may be necessary to determine compliance with this chapter.

(4) A person that violates the provisions of subsections (1) through (3) is subject to civil penalties as determined by the department of not less than $1,000 or more than $10,000.

History: En. Sec. 16, Ch. 140, L. 1969; amd. Sec. 214, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.17; amd. Sec. 6, Ch. 130, L. 1991; amd. Sec. 18, Ch. 414, L. 1993; amd. Sec. 19, Ch. 578, L. 1995; amd. Sec. 13, Ch. 511, L. 2005.

16-11-119. Disposition of taxes — statutory appropriation. (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection (5) of this section.

(2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or $5 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the major repair long-range building program account provided for in 17-7-221;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201;

(d) $150,000 in the veterans and surviving spouses state special revenue account provided for in 10-2-108; and

(e) the remainder to the state general fund.

(3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds $2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(4) The taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.

(5) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection (1) to the department for tax administration responsibilities.

History: En. Sec. 29, Ch. 140, L. 1969; amd. Sec. 5, Ch. 222, L. 1971; amd. Sec. 222, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.30(part); amd. Sec. 3, Ch. 267, L. 1981; amd. Sec. 7, Ch. 281, L. 1983; amd. Sec. 2, Ch. 608, L. 1983; amd. Sec. 2, Ch. 704, L. 1985; amd. Sec. 3, Ch. 681, L. 1989; amd. Sec. 1, Ch. 3, Sp. L. July 1992; amd. Sec. 26, Ch. 15, Sp. L. July 1992; amd. Sec. 29, Ch. 455, L. 1993; amd. Sec. 1, Ch. 548, L. 1993; amd. Sec. 29, Ch. 18, L. 1995; amd. Sec. 2, Ch. 456, L. 1995; amd. Sec. 54, Ch. 546, L. 1995; amd. Sec. 17, Ch. 422, L. 1997; amd. Sec. 51, Ch. 544, L. 2003; amd. Sec. 4, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 14, Ch. 511, L. 2005; amd. Sec. 24, Ch. 475, L. 2007; amd. Sec. 5, Ch. 461, L. 2009; amd. Sec. 9, Ch. 486, L. 2009; amd. Sec. 1, Ch. 324, L. 2011; amd. Sec. 2, Ch. 77, L. 2017; amd. Sec. 8, Ch. 469, L. 2019; amd. Sec. 1, Ch. 561, L. 2021; amd. Sec. 1, Ch. 547, L. 2023; amd. Sec. 2, Ch. 738, L. 2023.

Cross-References

Use of funds generated by taxation on cigarettes, 10-2-417.
Major repair long-range building program account, 17-7-221.
Special revenue fund — health and medicaid initiatives, 53-6-1201.

16-11-120. Tobacco product licenses. Every wholesaler, subjobber, retailer, or tobacco product vendor shall obtain a license from the department before engaging in the business of wholesaler, subjobber, retailer, or tobacco product vendor. A separate application and a separate license is required for each place of business owned, controlled, or operated by the wholesaler, subjobber, retailer, or tobacco product vendor within the state of Montana. Application forms must include the type and general description of applicant organizations, names of all known owners, and other pertinent information that the department may require by rule. The department shall comply with rules issued by the board of review established in 30-16-302 with respect to the form of electronic verification of information required or acceptable for licensing purposes.

History: En. Sec. 2, Ch. 140, L. 1969; amd. Sec. 206, Ch. 516, L. 1973; amd. Sec. 2, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.3; amd. Sec. 2, Ch. 366, L. 1997; amd. Sec. 15, Ch. 511, L. 2005.

16-11-121. Vending machines not places of business. Cigarette vending machines may not be considered as places of business per se, but a report of each machine must be made on forms prescribed by the department. The form must include the name and address of the cigarette vendor, the assigned location of each machine, with best machine identification available, type of business, and other information that the department may require for proper administration of this part.

History: En. Sec. 3, Ch. 140, L. 1969; amd. Sec. 207, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.4; amd. Sec. 20, Ch. 578, L. 1995.

16-11-122. License fees — renewal. (1) Each application for a wholesaler's license or a tobacco product vendor's license must be accompanied by a fee of $50.

(2) Each application for a subjobber's license must be accompanied by a fee of $50.

(3) Each application for a retailer's license must be accompanied by a fee of $50.

(4) Each application for a license to sell either alternative nicotine products or vapor products must be accompanied by a fee of $20.

(5) The fees for the licenses in subsections (2) and (3) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.

(6) These licenses must be renewed annually on or before the anniversary date established by rule by the board of review established in 30-16-302 and upon payment of the annual fee are effective for 1 year, without proration, and are not transferable.

History: En. Sec. 4, Ch. 140, L. 1969; amd. Sec. 3, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.5(part); amd. Sec. 3, Ch. 366, L. 1997; amd. Sec. 16, Ch. 511, L. 2005; amd. Sec. 1, Ch. 337, L. 2015; amd. Sec. 3, Ch. 455, L. 2021.

16-11-123. Display of license. (1) Each license shall be prominently displayed on the licensed premises, and a separate license shall be displayed at each place of business owned, controlled, or operated by such wholesaler, subjobber, retailer, or cigarette vendor.

(2) Each cigarette vendor shall affix a license decal furnished by the department in a prominent position on each vending machine.

History: En. Sec. 4, Ch. 140, L. 1969; amd. Sec. 3, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.5(part).

16-11-124. Disposition of license fees. (1) All license fees collected under the provisions of this part must be deposited with the state treasurer in the general fund.

(2) Each biennium, there must be appropriated to the department and the department of justice an amount justified and reasonable to operate the cigarette enforcement responsibilities of each department.

History: En. Sec. 5, Ch. 140, L. 1969; amd. Sec. 208, Ch. 516, L. 1973; amd. Sec. 6, Ch. 286, L. 1977; R.C.M. 1947, 84-5606.6(part); amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 351, L. 1989; amd. Sec. 19, Ch. 414, L. 1993; amd. Sec. 1, Ch. 10, L. 2009.

16-11-125. Licensure as both wholesaler and retailer allowed. This chapter does not prevent a person from being licensed as both a wholesaler and a retailer.

History: En. Sec. 1, Ch. 578, L. 1995.

16-11-126. Joint and several liability. (1) An individual is individually liable, jointly and severally, with and to the same extent as the business upon a determination that the individual possessed the responsibility on behalf of the business to comply or direct compliance with state law regarding sales of tobacco products if the individual is:

(a) a controlling person who directly or indirectly controls a business liable for a violation of the tax and directory requirements of this chapter; or

(b) a partner, officer, director, or person occupying a similar status or performing similar functions.

(2) For the purpose of determining liability for violations of the tax and directory requirements of this chapter, a member-managed limited liability company must be treated as a partnership with liability extending to each member who was a member at the time the violation occurred.

(3) For the purpose of determining personal liability for the failure to comply with the tax requirements of this chapter by a manager-managed limited liability company, the managers of the limited liability company are jointly and severally liable along with the limited liability company for all penalties owed.

(4) For determining personal liability for the failure to comply with the tax requirements of this chapter, the partners of the limited liability partnership are jointly and severally liable, along with the limited liability partnership, for any penalties and interest due.

History: En. Sec. 4, Ch. 511, L. 2005.

16-11-127 reserved.

16-11-128. Tobacco product sales reporting requirements. (1) Prior to delivering, mailing, or shipping tobacco products into Montana to a person other than a licensed wholesaler or retailer, a person who accepts purchase orders for tobacco product sales shall file a statement with the department. The statement must set forth:

(a) the name, trade name, and address of the principal place of business of the seller, any other place of business of the seller, and the seller's domicile state; and

(b) all owners or controlling persons and every partner, officer, director, or person occupying a similar status or performing similar functions and their home addresses.

(2) By the 10th day of each calendar month, each person that has made a sale or delivered, mailed, or shipped tobacco products into this state or contracted with another party for delivery service in connection with a sale of tobacco products into this state made during the previous calendar month shall file a memorandum of sale or a copy of the sales invoice with the department. The memorandum or sales invoice must provide, for each delivery sale made during the previous calendar month:

(a) the name and address of the consumer to whom the sale was made;

(b) the brand or brands of the tobacco products that were sold; and

(c) the quantity of tobacco products that were sold.

(3) A person that satisfies the requirements of 15 U.S.C. 376 is considered to meet the requirements of this section.

(4) The department may seek an injunction to restrain the actual or threatened violation of this section and to compel the seller to comply with this section.

History: En. Sec. 5, Ch. 511, L. 2005.

16-11-129. Enforcement. The attorney general, a designee of the attorney general, or any person who holds a permit under 26 U.S.C. 5713 may bring an action in the appropriate Montana district court to prevent or restrain violations of 16-11-128 by any person or by a principal of the person.

History: En. Sec. 34, Ch. 511, L. 2005.

16-11-130 reserved.

16-11-131. Transporting tobacco products without compliance a misdemeanor — invoices and delivery tickets required — stop and inspection authorized. (1) It is unlawful for a person to transport into, receive, carry, or move from place to place within this state, except in the course of interstate commerce, any tobacco products that do not comply with the requirements of this chapter.

(2) (a) When transporting unstamped cigarettes or roll-your-own tobacco, a person shall possess invoices or delivery tickets for the cigarettes or roll-your-own tobacco that show the name and address of the consignor or seller, the name of the consignee or purchaser, and the quantity and brands of the cigarettes or roll-your-own tobacco being transported.

(b) The cigarettes or roll-your-own tobacco transported are contraband and are subject to seizure, forfeiture, destruction, and sale as provided in 16-11-141, 16-11-147, 16-11-158, 16-11-159, 16-11-509, and this section if:

(i) there are no invoices or delivery tickets;

(ii) the name or address of the consignee or purchaser is falsified;

(iii) the consignee or purchaser is not authorized to possess unstamped cigarettes or roll-your-own tobacco; or

(iv) the cigarettes or roll-your-own tobacco are intended for sale in this state and are not on the directory.

(3) Transportation of cigarettes or roll-your-own tobacco from a point outside the state to a point in another state is not a violation of this section if the person transporting the unstamped cigarettes or cigarettes or roll-your-own tobacco that is not on the directory possesses adequate invoices or delivery tickets that give the name and address of the out-of-state consignor or seller and the out-of-state consignee or purchaser.

(4) If the department, its authorized agent, the department of justice, or a peace officer of the state has knowledge or reasonable grounds to believe that a vehicle is transporting tobacco products in violation of this chapter, the department, its agent, the department of justice, or a peace officer may stop and inspect the vehicle.

(5) When a person engaged in the business of selling tobacco products ships or causes to be shipped any tobacco products to any person in this state that are not in the tobacco product manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the words "tobacco products".

(6) A person violating the provisions of this section is guilty of a misdemeanor and is subject to the penalties in 16-11-148.

History: En. Sec. 20, Ch. 140, L. 1969; amd. Sec. 216, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.21(part); amd. Sec. 2, Ch. 382, L. 1979; amd. Sec. 9, Ch. 352, L. 1993; amd. Sec. 21, Ch. 578, L. 1995; amd. Sec. 17, Ch. 511, L. 2005.

16-11-132. Unlawful to sell tobacco products without valid license — exceptions. (1) Unless approved by the department, a person may not sell, offer to sell, or possess with intent to sell any tobacco products, at wholesale or retail, unless the person's license is current and valid under the provisions of this part.

(2) A person may not sell, offer to sell, or possess with intent to sell any tobacco products, at wholesale or retail, to a resident or nonresident wholesaler, subjobber, tobacco product vendor, or retailer who is not licensed under this part or who is not licensed by the state in which the person sells, offers to sell, or intends to sell tobacco products. However, a wholesaler, subjobber, tobacco product vendor, or retailer licensed under the provisions of this chapter may sell cigarettes to any person, wholesaler, subjobber, tobacco product vendor, or retailer not licensed under this chapter if:

(a) the person, wholesaler, subjobber, tobacco product vendor, or retailer is exempt from state tobacco product taxation provisions;

(b) the person, wholesaler, subjobber, tobacco product vendor, or retailer furnishes documentary evidence of exemption from state tobacco product taxation provisions; and

(c) the person, wholesaler, subjobber, tobacco product vendor, or retailer signs a receipt of purchase for any tobacco products evidencing an exemption from state tobacco product taxation provisions.

(3) A person violating the provisions of this section shall be punished as provided in 16-11-148, and all tobacco products in the person's possession must be seized, forfeited, and destroyed pursuant to 16-11-147, 16-11-158, and 16-11-159.

History: En. Sec. 8, Ch. 140, L. 1969; amd. Sec. 1, Ch. 319, L. 1973; R.C.M. 1947, 84-5606.9; amd. Sec. 3, Ch. 382, L. 1979; amd. Sec. 22, Ch. 578, L. 1995; amd. Sec. 18, Ch. 511, L. 2005.

16-11-133. Sale and use of cigarettes without insignia unlawful. (1) Unless approved by the department, a person who sells any package of cigarettes that does not bear the insignia required by this part and a person who uses or consumes a cigarette within this state, taken from a package that does not bear the required insignia, is guilty of a misdemeanor and is subject to the penalties in 16-11-148.

(2) This section may not be construed to prohibit a natural person from physically transporting into the state of Montana for the person's own personal consumption or use, a maximum of:

(a) 600 cigarettes that bear the tax insignia of another state; or

(b) 30 ounces of tobacco products, other than cigarettes, on which the tobacco taxes of another state have been paid.

History: En. Sec. 17, Ch. 140, L. 1969; amd. Sec. 12, Ch. 126, L. 1977; R.C.M. 1947, 84-5606.18; amd. Sec. 4, Ch. 382, L. 1979; amd. Sec. 23, Ch. 578, L. 1995; amd. Sec. 19, Ch. 511, L. 2005.

16-11-134. Forged license stamp or insignia. A person who makes, alters, forges, or counterfeits any license stamp or insignia provided for in this law, who assists or is concerned in the creation of the stamp or insignia, or who has in the person's possession any altered, forged, counterfeit, or spurious stamp, license, or insignia with intent to defraud the state is guilty of forgery.

History: En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(part); amd. Sec. 210, Ch. 56, L. 2009.

Cross-References

Penalty, 16-11-146.

Criminal offense of and punishment for forgery, 45-6-325.

16-11-135 through 16-11-140 reserved.

16-11-141. Powers of arrest — search and seizure. (1) The department of justice is a criminal justice agency. Designated agents of the department of justice have peace officer status and may arrest any person violating any provision of this chapter, enter a complaint before any court of competent jurisdiction, and lawfully search and seize and use as evidence contraband found in the possession of any person or in any place.

(2) Any investigator or peace officer who finds a tobacco product that the investigator or peace officer has reasonable cause to believe is contraband may seize and remove the contraband and the packages in which the contraband is kept. The contraband and all packages containing the contraband must, in addition to any other penalty prescribed by this chapter, be forfeited to the state of Montana as provided in 16-11-159 and destroyed as provided in 16-11-158.

History: En. Sec. 25, Ch. 140, L. 1969; amd. Sec. 112, Ch. 405, L. 1973; amd. Sec. 13, Ch. 126, L. 1977; R.C.M. 1947, 84-5606.26; amd. Sec. 20, Ch. 414, L. 1993; amd. Sec. 20, Ch. 511, L. 2005.

Cross-References

Searches and seizures generally, Art. II, sec. 11, Mont. Const.

Search and seizure, Title 46, ch. 5.

Arrest, Title 46, ch. 6.

16-11-142. Duties of county attorneys and peace officers. In the enforcement of this chapter, the department of justice may call to its assistance and it is the duty of any county attorney or any peace officer in this state to assist the department of justice in the enforcement of this chapter.

History: En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.28(part); amd. Sec. 21, Ch. 414, L. 1993; amd. Sec. 21, Ch. 511, L. 2005.

16-11-143. Penalty and interest for unpaid tobacco product tax. (1) If a person fails or refuses to pay the tobacco product tax required by this part when due, the department shall proceed to determine the tax due from the information that the department can obtain and shall assess the tax plus penalty and interest as provided in 15-1-216.

(2) In the case of any violation of this chapter, the department may sue, in the district where the department maintains its principal office, for the amount of the unpaid tobacco product tax, penalty, and costs, including reasonable expense of the department in effecting collection of the unpaid tax and penalty. When the court finds that the failure to pay the tax has been willful, the court shall, in addition, assess damages in treble the amount of the tax found to be due.

History: En. Secs. 15, 28, Ch. 140, L. 1969; amd. Secs. 213, 221, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.16, 84-5606.29; amd. Sec. 24, Ch. 578, L. 1995; amd. Sec. 50, Ch. 427, L. 1999; amd. Sec. 22, Ch. 511, L. 2005.

Cross-References

Uniform penalty and interest assessments for violation of tax provisions, 15-1-216.

16-11-144. Revocation or suspension of license. (1) The department may revoke or suspend the license of any wholesaler, subjobber, tobacco product vendor, retailer, or person licensed under 16-11-303 for failure to comply with any provision of The Montana Cigarette Sales Act (Title 16, chapter 10), this chapter, or with any lawful rule of the department made pursuant to those laws.

(2) A person aggrieved by a revocation or suspension may apply to the department for a hearing, which must be open to the public. If the person is aggrieved by the decision of the department, the person may further appeal to the court.

(3) When a license has been revoked, a license may not be issued to the licensee for a period of 1 year after revocation. When a license has been suspended, the suspension may be for any period not to exceed 1 year.

(4) A person who sells tobacco products after the person's license has been revoked or suspended is guilty of a misdemeanor and is subject to the penalties in 16-11-148, and all tobacco products in the person's possession must be seized and forfeited to the state.

History: En. Sec. 7, Ch. 140, L. 1969; amd. Sec. 209, Ch. 516, L. 1973; amd. Sec. 4, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.8; amd. Sec. 1, Ch. 439, L. 1995; amd. Sec. 25, Ch. 578, L. 1995; amd. Sec. 23, Ch. 511, L. 2005.

Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.

Contested cases — hearing under Montana Administrative Procedure Act, Title 2, ch. 4, part 6.

16-11-145. Place where violations committed considered public nuisance. Each person having possession or control of or who maintains a building or place where tobacco products are sold in violation of this chapter or who permits the tobacco products to be sold in violation of this chapter in any place or building possessed, controlled, or maintained by that person is guilty of maintaining and keeping a nuisance. The building or place so used, together with the personal property and fixtures used in connection with the building, is considered a nuisance. The person must be enjoined and the building or place, personal property, and fixtures abated as a nuisance at the instance of the state.

History: En. Sec. 18, Ch. 140, L. 1969; R.C.M. 1947, 84-5606.19; amd. Sec. 26, Ch. 578, L. 1995; amd. Sec. 24, Ch. 511, L. 2005.

Cross-References

Injunctions, Title 27, ch. 19.

Public nuisances — remedies, Title 27, ch. 30, part 2.

16-11-146. Penalty for forged license stamp or insignia. A person found guilty of forgery under 16-11-134 shall be punished by imprisonment in the state prison for not less than 1 year or more than 14 years. In addition, the department may impose the civil penalties in 16-11-148.

History: En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(part); amd. Sec. 25, Ch. 511, L. 2005.

16-11-147. Seizure and forfeiture of property used in transporting contraband. A motor vehicle, airplane, conveyance, vehicle, or other means of transportation in which contraband with a value of $1,000 or more is being unlawfully transported, together with the contraband and other equipment or personal property used in connection with and found in that transportation, is subject to seizure by the department of justice, its authorized agent, a sheriff or deputy, or any other peace officer and is subject to forfeiture as provided in 16-11-159.

History: En. Secs. 20, 21, Ch. 140, L. 1969; amd. Secs. 216, 217, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.21(part), 84-5606.22; amd. Sec. 254, Ch. 800, L. 1991; amd. Sec. 10, Ch. 352, L. 1993; amd. Sec. 22, Ch. 414, L. 1993; amd. Sec. 26, Ch. 511, L. 2005.

Cross-References

Procedure regarding seized property, Title 46, ch. 5, part 3.

16-11-148. Penalties and other remedies. (1) Unless otherwise provided, the purposeful, knowing, or negligent violation of any provision of this part constitutes a misdemeanor punishable by imprisonment for a term of up to 1 year or by a fine of up to $1,000, or both. For a first offense, if a violation of this part involves contraband the value of which does not exceed $1,000, the offense is punishable by a fine of not less than $100 or more than $500 or by imprisonment in the county jail for not less than 30 days or more than 6 months, or both. Second and subsequent purposeful, knowing, or negligent violations of any provision of this part constitute a felony punishable by imprisonment for a term exceeding 1 year or a fine not to exceed $50,000, or both.

(2) In addition to any other civil or criminal remedy provided by law, upon a determination that a license holder under this part has violated any section in this part or any rule adopted pursuant to this part, the license may be suspended or revoked in the manner provided in 16-11-144 in a proceeding brought by the department or the attorney general.

(3) (a) Except as provided in subsection (3)(b), in addition to the criminal penalties provided in subsection (1), the department or the department of justice may assess a person who violates any provision of this part a civil penalty of $250 for the first full or partial pack of contraband cigarettes and $10 for each additional full or partial pack of contraband cigarettes. For purposes of this definition of cigarette, 0.09 ounces of roll-your-own tobacco constitutes one individual cigarette. Each tax insignia affixed and each offer to sell, sale, or possession for sale of cigarettes in violation of this part constitutes a separate violation.

(b) A civil penalty may not be assessed to a person for a first violation of subsection (1) if the offense involves contraband with a value of $1,000 or less.

(4) The department or the department of justice shall determine the amount of the penalty provided in subsection (3) and notify the person who unlawfully possessed or transported the contraband cigarettes of the amount. The penalty is due and payable on the date of the notice. A penalty not paid when due is subject to interest at the rate of 10% a year.

History: En. Sec. 30, Ch. 140, L. 1969; amd. Sec. 223, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.31; amd. Sec. 27, Ch. 578, L. 1995; amd. Sec. 27, Ch. 511, L. 2005.

Cross-References

Place of imprisonment when none specified — sentence for 1 year or less, 46-18-211.

16-11-149. Hearings before department. (1) A person aggrieved by any action of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation of a license pursuant to 16-11-144, may apply to the department, in writing, for a hearing or rehearing within 30 days after the action of the department or its authorized agents.

(2) The department shall promptly consider the application, set the application for hearing, and notify the applicant of the time and place fixed for the hearing or rehearing, which may be at its office or in the county of the applicant. After the hearing or rehearing, the department may make any further or other order on the grounds that it may consider proper and lawful and shall furnish a copy to the applicant.

(3) The department, on its own initiative, may order a contested case hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with the administration of this part upon at least 10 days' notice in writing to the person or persons to be investigated.

(4) A person may appeal a final order of the department to the Montana tax appeal board as provided in 15-2-302.

History: En. Sec. 23, Ch. 140, L. 1969; amd. Sec. 111, Ch. 405, L. 1973; amd. Sec. 7, Ch. 155, L. 1977; R.C.M. 1947, 84-5606.24; amd. Sec. 23, Ch. 414, L. 1993; amd. Sec. 28, Ch. 578, L. 1995; amd. Sec. 28, Ch. 511, L. 2005; amd. Sec. 18, Ch. 44, L. 2007; amd. Sec. 6, Ch. 364, L. 2009; amd. Sec. 45, Ch. 142, L. 2021.

Cross-References

Tax appeals, Art. VIII, sec. 7, Mont. Const.
Contested cases — hearing under Montana Administrative Procedure Act, Title 2, ch. 4, part 6.
Montana Tax Appeal Board, Title 15, ch. 2.

16-11-150. Appeal to district court. Any person aggrieved by any action or decision of the department or the department of justice or a licensing decision of the department made under the provisions of this part may appeal to the district court in accordance with the Montana Administrative Procedure Act.

History: En. Sec. 24, Ch. 140, L. 1969; amd. Sec. 218, Ch. 516, L. 1973; amd. Sec. 8, Ch. 155, L. 1977; R.C.M. 1947, 84-5606.25; amd. Sec. 29, Ch. 511, L. 2005.

Cross-References

Judicial review under Montana Administrative Procedure Act, Title 2, ch. 4, part 7.

16-11-151 through 16-11-154 reserved.

16-11-155. Definitions. As used in 16-11-111, 16-11-155, 16-11-156, and 16-11-158, the following definitions apply:

(1) "Indian reservation" means lands declared to be a reservation for an Indian tribe or tribes:

(a) by a treaty between the tribe and a territorial government, a state government, or the United States;

(b) through an act of the United States congress; or

(c) through an executive order of the United States.

(2) "Quota" means 150% of the national average individual consumption of cigarettes multiplied by the enrolled tribal member population of an Indian reservation on which the cigarette sales are made or any other formula or amount agreed to in a state-tribal cooperative agreement.

History: En. Sec. 1, Ch. 352, L. 1993; amd. Sec. 30, Ch. 511, L. 2005.

16-11-156. Stamps affixed on cigarettes — exception. Except for cigarettes sold on a military reservation, cigarettes sold in Montana must have a Montana cigarette tax stamp affixed prior to sale.

History: En. Sec. 2, Ch. 352, L. 1993.

16-11-157. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 6, Ch. 352, L. 1993.

16-11-158. Sale or retention of forfeited property — use of sale proceeds — destruction of contraband. (1) When property is forfeited under 16-11-159, the department may:

(a) retain the property or any part of the property for official use or, upon application by a law enforcement agency of this state, another state, the District of Columbia, or the United States, for the exclusive use of enforcing the provisions of this chapter or the laws of another state, the District of Columbia, or the United States; or

(b) after advertising, sell the property, other than contraband, at public auction to the highest bidder.

(2) The proceeds of a sale under this section must be applied first to paying the expenses of any investigation leading to the seizure of the property, including costs incurred by a local, state, tribal, or federal law enforcement agency, and of the forfeiture and sale proceedings, including the expenses of seizure, maintenance, custody, and court costs. The balance of the proceeds, less an amount that is based on the value of the property seized on an Indian reservation and that is allocated to a tribe pursuant to a state-tribal cooperative agreement, must be deposited in the state general fund.

(3) Contraband forfeited under 16-11-159 must be destroyed.

History: En. Sec. 7, Ch. 352, L. 1993; amd. Sec. 31, Ch. 511, L. 2005.

Cross-References

Procedure in regard to seized property, Title 46, ch. 5, part 3.

16-11-159. Forfeiture of contraband and property used in transporting contraband. (1) Upon the seizure of any contraband and within 10 working days after seizure of any equipment or property, the officer making the seizure shall:

(a) deliver an inventory of the property or contraband seized to the person from whom the seizure was made or to any other person having a right or interest in the seized property or contraband, if known; and

(b) file a copy of the inventory with the department if the tobacco product is contraband under part 1 of this chapter or with the department of justice if the tobacco product is contraband under parts 4 or 5 of this chapter.

(2) If a person other than the person from whom the property or contraband was seized, as described in subsection (1), does not notify the department that issued the notice of a written claim of ownership or right of possession of the items seized within 15 days of the date of the inventory required in subsection (1), the seized property or contraband is considered forfeited.

(3) If a person notifies the appropriate department in writing of a claim of ownership or right of possession of the items seized within 15 days of the date of inventory required in subsection (1), the person is entitled to a hearing on the claim or right. The hearing must be held before the issuing department's director or the director's designee, in accordance with the Montana Administrative Procedure Act. If the aggregate value of the seized property or contraband is more than $500, a person seeking the return of the property or contraband may, in lieu of requesting a hearing, bring an action in the district court of the county in which the property or contraband was seized.

(4) All property and contraband forfeited must be disposed of as provided in 16-11-158.

History: En. Sec. 6, Ch. 511, L. 2005.

Part 2
Tax on Tobacco Products Other Than Cigarettes (Repealed)

16-11-201. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 1, Ch. 12, Ex. L. 1969; amd. Sec. 252, Ch. 516, L. 1973; R.C.M. 1947, 84-6801(4) thru (6); amd. Sec. 29, Ch. 578, L. 1995; amd. Sec. 52, Ch. 544, L. 2003.

16-11-202. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 2, Ch. 12, Ex. L. 1969; R.C.M. 1947, 84-6802; amd. Sec. 27, Ch. 15, Sp. L. July 1992; amd. Sec. 30, Ch. 578, L. 1995; amd. Sec. 53, Ch. 544, L. 2003; amd. Sec. 5, I.M. No. 149, approved Nov. 2, 2004.

16-11-203. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 3, Ch. 12, Ex. L. 1969; R.C.M. 1947, 84-6803; amd. Sec. 31, Ch. 578, L. 1995; amd. Sec. 51, Ch. 427, L. 1999.

16-11-204. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 4, Ch. 12, Ex. L. 1969; R.C.M. 1947, 84-6804; amd. Sec. 32, Ch. 578, L. 1995.

16-11-205. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 5, Ch. 12, Ex. L. 1969; R.C.M. 1947, 84-6805.

16-11-206. Repealed. Sec. 35, Ch. 511, L. 2005.

History: En. Sec. 6, Ch. 12, Ex. L. 1969; amd. Sec. 253, Ch. 516, L. 1973; R.C.M. 1947, 84-6806; amd. Sec. 8, Ch. 281, L. 1983; amd. Sec. 30, Ch. 455, L. 1993; amd. Sec. 30, Ch. 18, L. 1995; amd. Sec. 18, Ch. 422, L. 1997; amd. Sec. 54, Ch. 544, L. 2003; amd. Sec. 6, I.M. No. 149, approved Nov. 2, 2004.

Part 3
Youth Access to Tobacco Products Control Act

Part Cross-References

Possession or consumption of tobacco products, alternative nicotine products, or vapor products by persons under 18 years of age prohibited — unlawful attempt to purchase — penalties, 45-5-637.

16-11-301. Short title. This part may be cited as the "Youth Access to Tobacco Products Control Act".

History: En. Sec. 1, Ch. 569, L. 1993.

16-11-302. Definitions. For the purposes of 16-11-301 through 16-11-308, the following definitions apply:

(1) (a) "Alternative nicotine product" means any manufactured noncombustible product containing nicotine derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

(b) The term does not include a tobacco product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(2) "Distribute" means:

(a) to give, deliver, sample, or sell;

(b) to offer to give, deliver, sample, or sell; or

(c) to cause or hire another person to give, deliver, sample, or sell or offer to give, deliver, sample, or sell.

(3) "Health warning" means a tobacco product label required by federal law and intended to alert users of the product to the health risks associated with tobacco use. The term includes warning labels required under the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act of 1986.

(4) "License" means a retail tobacco product sales license.

(5) "Person" means a natural person, company, corporation, firm, partnership, organization, or other legal entity.

(6) (a) "Tobacco product" means a substance intended for human consumption that contains tobacco. The term includes cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

(b) The term does not include an alternative nicotine product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(7) (a) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) The term does not include a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

History: En. Sec. 2, Ch. 569, L. 1993; amd. Sec. 2, Ch. 337, L. 2015.

16-11-303. License for retail sale of tobacco products — alternative nicotine products — vapor products. (1) A person may not sell tobacco products, alternative nicotine products, or vapor products at retail, whether over the counter, by vending machine, or otherwise, without a license obtained from the department of revenue.

(2) A license for the retail sale of tobacco products, alternative nicotine products, or vapor products may be obtained from the department of revenue.

(3) The fee collected by the department must be deposited in the general fund.

History: En. Sec. 3, Ch. 569, L. 1993; amd. Sec. 3, Ch. 337, L. 2015.

16-11-304. Signs. A retail seller of tobacco products, alternative nicotine products, or vapor products shall conspicuously display, at each place on the premises at which tobacco products, alternative nicotine products, or vapor products are displayed and sold, a sign that is to be provided without charge by the department of revenue that states: "Montana law prohibits the sale of tobacco products, alternative nicotine products, and vapor products to persons under 18 years of age."

History: En. Sec. 4, Ch. 569, L. 1993; amd. Sec. 2, Ch. 439, L. 1995; amd. Sec. 4, Ch. 337, L. 2015.

16-11-305. Sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under 18 years of age prohibited. (1) A person may not sell or distribute a tobacco product, alternative nicotine product, or vapor product to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise.

(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a physical or digital version of a driver's license or other generally accepted identification that includes a picture of the individual.

(3) If the seller scans a physical or digital version of a person's government or tribal-issued identification, the seller shall handle data and metadata from the scan in accordance with 16-3-313.

History: En. Sec. 5, Ch. 569, L. 1993; amd. Sec. 5, Ch. 337, L. 2015; amd. Sec. 2, Ch. 264, L. 2021; amd. Sec. 2, Ch. 115, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 115, L. 2025. Amendment effective October 1, 2025.

Cross-References

Periodic government or tribal-issued identification data destruction, 16-3-313.

16-11-306. Sales of tobacco, alternative nicotine products, or vapor products through vending machines restricted. (1) Tobacco products, alternative nicotine products, and vapor products may be sold through a vending machine only in places where alcoholic beverages are sold and consumed on the premises and where the vending machine is under the direct line-of-sight supervision of the owner or an employee of the establishment. The tobacco products, alternative nicotine products, or vapor products must be in a vending machine that contains only tobacco products, alternative nicotine products, or vapor products.

(2) Tobacco products, alternative nicotine products, or vapor products may not be sold through a vending machine that is located in a restaurant unless the restaurant has a bar, the restaurant area shares seating with the bar area, and the vending machine meets the requirements of subsection (1).

(3) The sale of tobacco products, alternative nicotine products, or vapor products from a vending machine under the direct line-of-sight supervision of an owner or employee is considered a sale of tobacco products, alternative nicotine products, or vapor products by the owner or employee for the purposes of 16-11-305.

History: En. Sec. 6, Ch. 569, L. 1993; amd. Sec. 1, Ch. 518, L. 1997; amd. Sec. 6, Ch. 337, L. 2015.

16-11-307. Distribution of tobacco products in other than sealed packages prohibited — minimum package size. (1) A person may not distribute a tobacco product for commercial purposes in other than a sealed package that is provided by the manufacturer and that contains the health warning required by federal law. Single cigarettes may not be sold.

(2) A person may not knowingly manufacture or distribute for commercial purposes cigarettes in a package containing fewer than 20 cigarettes or rolling tobacco in a package containing less than 0.6 ounces net weight of tobacco. For purposes of 16-11-308 and this section, "rolling tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes.

History: En. Sec. 7, Ch. 569, L. 1993; amd. Sec. 3, Ch. 439, L. 1995; amd. Sec. 2, Ch. 56, L. 2001.

16-11-308. Civil penalties — license suspension — tobacco education fee. (1) Failure to obtain a license, as required by 16-11-303, failure to post signs, as provided in 16-11-304, or the manufacture or sale of cigarettes or rolling tobacco in violation of the minimum package size requirements of 16-11-111 or 16-11-307 is punishable by a civil penalty of $100. The department may collect the penalty in the manner provided for the collection of other debts.

(2) A person who violates 16-11-305(1) or 16-11-307(1) at any one location within a 3-year period shall be punished as follows:

(a) A first through third offense is punishable by a verbal notification of violation.

(b) A fourth offense is punishable by a written notice of violation to be sent by the department of public health and human services to the owner of the establishment.

(c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco education fee of $500. The employee or other person who sold the tobacco product, alternative nicotine product, or vapor product, the establishment manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the tobacco education material.

(d) A sixth offense under 16-11-305(1) or 16-11-307(1) or a third offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months.

(e) A seventh and subsequent offense under 16-11-305(1) or 16-11-307(1) or a fourth and subsequent offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 1 year.

(3) After 2 years from the first violation, if a person has not received notice of any further violations, a second violation is considered a first violation for the purposes of subsection (2).

(4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco education fees or civil penalties are paid in full.

(5) Tobacco education fees must be assessed and collected by the department of public health and human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made by the department of public health and human services within 30 days of the alleged violation by certified letter addressed to the establishment owner or manager. The notice of assessment against the owner of the establishment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the owner or manager shall notify the department of public health and human services that the owner or manager objects to the assessment and request a hearing pursuant to this subsection.

(6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of 16-11-305(1) or 16-11-307(1) is punishable by an assessment of a tobacco education fee of $25 against the employee who sold the tobacco product, alternative nicotine product, or vapor product if the employee is not the owner of the establishment. The tobacco education fee must be assessed and collected by the department of public health and human services. Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made by the department of public health and human services by certified letter addressed to the employee. The notice of assessment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee shall notify the department of public health and human services that the employee objects to the assessment and requests a hearing pursuant to this subsection.

(7) The tobacco education material referred to in this section must be provided by the department of public health and human services in the form of written and video self-teaching materials. The education materials may be used only for the purposes provided in this section. Upon completion of the self-teaching materials, the establishment owner or manager shall execute a written statement on a form provided by the department of public health and human services verifying that the employee, owner, or manager, as appropriate, has read and viewed the self-teaching material and shall return the statement and the self-teaching video to the department of public health and human services.

(8) Upon the sixth and subsequent violation of this section, the department of public health and human services shall notify the department of revenue in writing to initiate suspension of the licenses required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and of the referral of the licensee's record of violations to the department of revenue for suspension of the licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review of the record of violations, the department of revenue declines to initiate suspension proceedings, the violation may not be charged against the licensee for the purposes of this section.

(9) Fees assessed pursuant to this section must be deposited in the state general fund.

History: En. Sec. 8, Ch. 569, L. 1993; amd. Sec. 4, Ch. 439, L. 1995; amd. Sec. 2, Ch. 518, L. 1997; amd. Sec. 10, Ch. 389, L. 1999; amd. Sec. 3, Ch. 56, L. 2001; amd. Sec. 7, Ch. 337, L. 2015.

16-11-309. Inspection and notification of violation required. (1) The department of public health and human services shall conduct inspections of persons selling or distributing tobacco products, alternative nicotine products, or vapor products to determine compliance with 16-11-303, 16-11-304, 16-11-305(1), 16-11-306, and 16-11-307. Inspections may be conducted directly by the department of public health and human services or may be provided for by

contract let by the department of public health and human services. Persons found to be in violation of the requirements of this part or the rules of the department of public health and human services a fourth and subsequent time must be notified in writing by the department of public health and human services of the facts of the violation and the penalties provided by this part.

(2) The department of public health and human services shall provide documentation of alleged violations of 16-11-303, 16-11-305, and 16-11-307 to the department of revenue.

History: En. Sec. 5, Ch. 439, L. 1995; amd. Sec. 8, Ch. 337, L. 2015.

16-11-310. Minors not liable for possession or attempt to purchase. An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for the possession of or the attempt to purchase a tobacco product, alternative nicotine product, or vapor product for the purposes of enforcing this part.

History: En. Sec. 6, Ch. 439, L. 1995; amd. Sec. 2, Ch. 498, L. 2001; amd. Sec. 9, Ch. 337, L. 2015.

16-11-311. Local regulations. A local government may by ordinance adopt regulations on the subjects of 16-11-301 through 16-11-308, including alternative nicotine or vapor products as provided in 16-11-313, that are no more stringent than 16-11-301 through 16-11-308 and 16-11-313.

History: En. Sec. 10, Ch. 569, L. 1993; amd. Sec. 4, Ch. 455, L. 2021.

16-11-312. Rulemaking authority. The department of revenue may adopt rules to implement 16-11-301 through 16-11-308.

History: En. Sec. 11, Ch. 569, L. 1993.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

16-11-313. Alternative nicotine products and vapor products — local ordinance or resolution — prohibition. (1) A local government may not adopt or enforce any local ordinance or resolution that prohibits the sale of alternative nicotine products or vapor products.

(2) Subject to 16-11-311, nothing in this section may be construed to restrict a local government from enacting reasonable ordinances or resolutions relating to the sale of alternative nicotine products or vapor products.

History: En. Sec. 1, Ch. 455, L. 2021.

Part 4
Tobacco Products Reserve Fund — Administration

16-11-401. Findings and purpose. (1) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(3) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(4) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(6) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

History: En. Sec. 1, Ch. 412, L. 1999.

16-11-402. Definitions. (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with 16-11-403(2) of this Act.

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(a) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(b) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) becomes a successor of an entity described in paragraph (a) or (b). The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs (a) - (c) above.

(10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs or "roll-your-own" tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

History: En. Sec. 2, Ch. 412, L. 1999; amd. Sec. 1, Ch. 324, L. 2005.

16-11-403. Requirements. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(1) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(2) (a) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation) —

1999: $0.0094241 per unit sold after the date of enactment of this Act;

2000: $0.0104712 per unit sold;

for each of 2001 and 2002: $0.0136125 per unit sold;

for each of 2003 through 2006: $0.0167539 per unit sold;

for each of 2007 and each year thereafter: $0.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances-

(i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (A) in the order in which they were placed into escrow and (B) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement, including a final determination of all adjustments, that the manufacturer would have been required to make on account of those units had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(iii) to the extent not released from escrow under subparagraphs (i) or (ii), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall-

(i) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(ii) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the

state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(iii) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years. Each failure to make an annual deposit required under this section shall constitute a separate violation. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003.)*

History: En. Sec. 3, Ch. 412, L. 1999; amd. Sec. 14, Ch. 397, L. 2003.

Compiler's Comments

Contingent Voidness: Section 16, Ch. 397, L. 2003, provided: "If any provision of [this act] causes 16-11-401 through 16-11-403 to no longer constitute a qualifying statute, as defined in section IX(d)(2)(E) of the Master Settlement Agreement, then that provision of [this act] is void."

Contingent Severability: Section 17(2), Ch. 397, L. 2003, provided: "(2) If any part of the amendment to 16-11-403(2)(b)(ii) made by [section 14] [16-11-403] is invalid, then 16-11-403(2)(b)(ii) is void in its entirety. If the voiding of 16-11-403(2)(b)(ii) is thereafter declared invalid, then [section 14] [16-11-403] is void and 16-11-403(2)(b)(ii) is restored as it read on the day prior to [the effective date of this act] [effective April 17, 2003]. If 16-11-403(2)(b)(ii) is voided under this section or is declared invalid, all other portions of 16-11-403 remain in effect in all valid applications that are severable from the voided or invalid applications."

16-11-404. Attorney fees and costs. (1) In an action under 16-11-403(2)(c), the court, upon a finding that a tobacco product manufacturer has failed to comply with its obligations under 16-11-403(1) or (2)(a), shall award the attorney general the expenses incurred in investigating the claim, the costs of suit, and reasonable attorney fees. In cases in which outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general for attorney fees and expenses in prosecuting the action. In all other cases, the attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action.

(2) Investigation expenses, attorney fees, and costs recovered under this section are allocated to the department of justice for deposit in the attorney general's major litigation account and may be used by the attorney general for any purpose for which funds appropriated to that account may be used. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003.)*

History: En. Sec. 13, Ch. 397, L. 2003; amd. Sec. 2, Ch. 324, L. 2005.

Compiler's Comments

Contingent Voidness: Section 16, Ch. 397, L. 2003, provided: "If any provision of [this act] causes 16-11-401 through 16-11-403 to no longer constitute a qualifying statute, as defined in section IX(d)(2)(E) of the Master Settlement Agreement, then that provision of [this act] is void."

Part 5
Tobacco Products Reserve Fund — Enforcement

Part Compiler's Comments

Contingent Voidness: Section 16, Ch. 397, L. 2003, provided: "If any provision of [this act] causes 16-11-401 through 16-11-403 to no longer constitute a qualifying statute, as defined in section IX(d)(2)(E) of the Master Settlement Agreement, then that provision of [this act] is void."

16-11-501. Findings and purpose. The legislature finds that violations of 16-11-401 through 16-11-403 threaten the integrity of the tobacco Master Settlement Agreement, the fiscal soundness of the state, and the public health. The legislature finds that enacting procedural enhancements will help prevent violations of 16-11-401 through 16-11-403 and will safeguard the Master Settlement Agreement, the fiscal soundness of the state, and the public health. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 1, Ch. 397, L. 2003.

16-11-502. Definitions. As used in this part, the following definitions apply:

(1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to "menthol", "lights", "kings", and "100s", and includes any use of a brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message,

recognizable pattern of colors, or any other indicia of product identification identical or similar to or identifiable with a previously known brand of cigarettes.

(2) "Cigarette" has the meaning provided in 16-11-402.

(3) "Department" means the department of revenue.

(4) "Master Settlement Agreement" has the meaning provided in 16-11-402.

(5) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(6) "Participating manufacturer" has the meaning provided in section II(jj) of the Master Settlement Agreement defined in 16-11-402 and all amendments thereto.

(7) "Qualified escrow fund" has the meaning provided in 16-11-402.

(8) "Tobacco product manufacturer" has the meaning provided in 16-11-402.

(9) "Units sold" has the meaning provided in 16-11-402.

(10) "Wholesaler" means a person that is authorized to affix tax insignia to packages or other containers of cigarettes under 16-11-113, a person that is required to remit the tobacco tax imposed on cigarettes pursuant to 16-11-111, or a person that is required to remit the tobacco tax imposed on other tobacco products under 16-11-111(7). *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 2, Ch. 397, L. 2003; amd. Sec. 3, Ch. 324, L. 2005.

16-11-503. Certifications. (1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a wholesaler, distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver, on a form prescribed by the attorney general, a certification to the director of the department and the attorney general, no later than April 30 of each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either is a participating manufacturer or is in full compliance with parts 4 and 5 of this chapter and any rules adopted pursuant to 16-11-511.

(2) A participating manufacturer shall include in its certification a list of its brand families.

(3) (a) A nonparticipating manufacturer shall include in its certification a list of all of its brand families, the number of units sold in the state during the preceding calendar year for each brand family, and a list of all of its brand families that have been sold in the state at any time during the current calendar year.

(b) The certification must indicate by an asterisk any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of the certification.

(c) The certification must identify by name and address any other manufacturer of the brand families in the preceding or current calendar year.

(4) A tobacco product manufacturer shall update its list of brand families 30 calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general and the director of the department.

(5) A nonparticipating manufacturer shall further certify:

(a) that the nonparticipating manufacturer is registered to do business in the state and has appointed an agent for service of process and has provided notice as required by 16-11-506;

(b) that the nonparticipating manufacturer has:

(i) established and continues to maintain a qualified escrow fund; and

(ii) executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund;

(c) that the nonparticipating manufacturer is in full compliance with 16-11-403 and this section and any rules adopted pursuant to 16-11-403 and this section;

(d) (i) the name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required by 16-11-403 and all rules adopted pursuant to 16-11-403;

(ii) the account number of the qualified escrow fund and any subaccount number for the state of Montana;

(iii) the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification considered necessary by the attorney general to confirm the provisions of this subsection (5)(d)(iii); and

(iv) the amounts and dates of any withdrawal or transfer of funds that the nonparticipating manufacturer made at any time from the qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer ever made escrow payments pursuant to 16-11-403 and all rules adopted pursuant to 16-11-403.

(6) A tobacco product manufacturer may not include a brand family in its certification unless:

(a) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be considered its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and

(b) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be considered to be its cigarettes for purposes of 16-11-403.

(7) This part may not be construed to limit or otherwise affect the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payment under the Master Settlement Agreement or for purposes of 16-11-401 through 16-11-403.

(8) A tobacco product manufacturer shall maintain all invoices and documentation of sales and other similar information relied upon for its certifications for a period of 5 years unless otherwise required by law to maintain them for a longer period of time. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 3, Ch. 397, L. 2003; amd. Sec. 4, Ch. 324, L. 2005.

16-11-504. Directory of cigarettes approved for stamping and sale. (1) Not later than July 16, 2003, the attorney general shall develop and publish on the attorney general's website a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of 16-11-503 and all brand families that are listed in the certifications, except as otherwise provided in this section.

(2) The attorney general may not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the attorney general determines is not in compliance with 16-11-503, unless the attorney general has determined that the violation has been cured to the satisfaction of the attorney general.

(3) Neither a tobacco product manufacturer nor a brand family may be included or retained in the directory if the attorney general concludes, in the case of a nonparticipating manufacturer that:

(a) an escrow payment required pursuant to 16-11-403 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or

(b) an outstanding final judgment, including interest on the judgment, for a violation of 16-11-403 has not been fully satisfied for the brand family or the manufacturer.

(4) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this part. The attorney general shall post in the directory and transmit by electronic mail and certified mail, return receipt requested, to each wholesaler notice of the intended removal from the directory of a tobacco product manufacturer or brand family no less than 30 days prior to the removal. During that period, cigarettes of the tobacco product manufacturer or brand family subject to the notice are contraband under 16-11-147 and the affixing of tax insignia to or the sale or possession for sale of the cigarettes is unlawful as provided in 16-11-505, except that, notwithstanding the provisions of 16-11-147 and 16-11-505:

(a) a wholesaler may affix tax insignia to, possess for sale, or sell at wholesale cigarettes of any tobacco product manufacturer or brand family subject to notice of removal under this subsection (4) if the cigarettes were shipped to the wholesaler on or before the date of issuance of the notice and if the total number of the cigarettes sold by the wholesaler following issuance of the notice of removal and prior to reinstatement of the tobacco product manufacturer or brand family in the directory does not exceed a number that is the average of the number of cigarettes of the tobacco product manufacturer or brand family sold by the wholesaler during each of the 3 months preceding the issuance of the notice; and

(b) a licensed seller at retail may possess and sell cigarettes of a tobacco product manufacturer or brand family that the attorney general has removed from the directory or that is subject to notice of removal if the cigarettes were lawfully shipped to the retailer before the issuance of the notice of removal or after the issuance of notice of removal but before the attorney general removes the tobacco product manufacturer or brand family from the directory. A contract with a tobacco product manufacturer that has been removed from the directory that purports to require, contemplate, or provide for delivery of cigarettes or tobacco products in any applicable brand family after the date of removal from the directory is not valid or enforceable.

(5) Every wholesaler shall provide and update as necessary an electronic mail address to the attorney general for the purpose of receiving any notifications required by this part. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 4, Ch. 397, L. 2003.

16-11-505. Prohibition against stamping or sale of cigarettes not in directory. It is unlawful for any person to:

(1) affix a tax insignia to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or

(2) sell, offer for sale, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family not included in the directory. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 5, Ch. 397, L. 2003.

16-11-506. Agent for service of process. (1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of 16-11-403 and this part, may be served in any manner authorized by law. The service constitutes legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent to the satisfaction of the attorney general.

(2) The nonparticipating manufacturer shall provide notice to the attorney general at least 30 calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than 5 calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within 5 calendar days and include proof to the satisfaction of the attorney general of the appointment of a new agent. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 6, Ch. 397, L. 2003.

16-11-507. Reporting of information. (1) Not later than 20 calendar days after the end of each calendar quarter and more frequently if directed by the attorney general, each wholesaler shall submit information that the attorney general requires to facilitate compliance with this section by nonparticipating manufacturers, including but not limited to a list by brand family of the total number of nonparticipating manufacturer cigarettes or, in the case of nonparticipating manufacturer roll-your-own tobacco, the equivalent amount of tobacco, calculated as provided in 16-11-402(4), on which the wholesaler precollected tax as provided in 16-11-113 and that the wholesaler sold during the period covered by the report. The wholesaler shall maintain and make available to the attorney general all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney general for a period of 5 years.

(2) The department is authorized to disclose to the attorney general any information received by it and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this part. The department and attorney general shall share the information received under this part with each other and may share the information with

other federal, state, or local agencies only for the purposes of enforcement of 16-11-403, this part, or the corresponding laws of other states.

(3) The attorney general may require at any time from the nonparticipating manufacturer proof from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with 16-11-403 of:

(a) the amount of money in the fund, exclusive of interest;

(b) the amount and dates of each deposit to the fund; and

(c) the amount and dates of each withdrawal from the fund.

(4) In addition to the information required to be submitted pursuant to subsections (1) through (3), the attorney general may require a wholesaler or tobacco product manufacturer to submit any additional information, including but not limited to samples of the packaging or labeling of each brand family, to enable the attorney general to determine whether a tobacco product manufacturer or wholesaler is in compliance with this part. All information submitted by a wholesaler or tobacco product manufacturer under this section must be full, complete, and accurate. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 7, Ch. 397, L. 2003; amd. Sec. 5, Ch. 324, L. 2005; amd. Sec. 32, Ch. 511, L. 2005.

16-11-508. Escrow installments. To promote compliance with the provisions of this part, the attorney general may adopt rules requiring a tobacco product manufacturer to make the escrow deposits required in 16-11-403 in installments during the year in which the sales covered by the deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 8, Ch. 397, L. 2003.

16-11-509. Penalties and other remedies. (1) In addition to any other civil or criminal remedy provided by law, upon a determination that a wholesaler has violated 16-11-505 or any rule adopted pursuant to that section, the department may revoke or suspend the license of the wholesaler in the manner provided by 16-11-144 in a proceeding initiated by the department or at the request of the attorney general. For each violation of 16-11-505, a civil penalty in the amount of $250 for the first full or partial pack and $10 for each additional full or partial pack to which a tax insignia is affixed or that is sold, offered for sale, or possessed for sale in violation of 16-11-505 may be imposed. Each tax insignia affixed, each offer to sell cigarettes, and each pack sold, offered for sale, or possessed for sale in violation of 16-11-505 constitutes a separate violation. The penalty may be imposed in the manner provided by 16-11-143(2) in a proceeding brought by the department or the attorney general.

(2) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of 16-11-505 may be considered contraband under 16-11-147. The cigarettes are subject to seizure and forfeiture as provided in 16-11-147, and all cigarettes seized and forfeited must be destroyed and not resold.

(3) The attorney general may seek an injunction to restrain a threatened or actual violation of 16-11-505 or 16-11-507(1) or (4) by a wholesaler and to compel the wholesaler to comply with those sections.

(4) (a) In any action brought pursuant to this part, the prevailing party is entitled to recover the costs of the action and reasonable attorney fees calculated as provided in 16-11-404. If the state is the prevailing party, its recoverable costs must include the state's costs of investigation of the violation.

(b) In cases in which the state is the prevailing party and outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general's office for attorney fees and expenses in prosecuting the action. In all other cases in which the state is the prevailing party, the state's attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau of the department for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action.

(5) (a) It is unlawful for a person to:

(i) sell, offer for sale, or distribute cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505; or

(ii) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505.

(b) A violation of this section is a misdemeanor punishable as provided in 16-11-148.

(6) If a court determines that a person has violated this part, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be paid to the state treasurer for deposit in the trust fund created by Article XII, section 4, of the Montana constitution.

(7) Penalties, investigation expenses, attorney fees, and costs recovered under parts 4 and 5 of this chapter are allocated to the department of justice for deposit in the major litigation account and may be used for any purpose for which funds deposited in that account may be used. The funds are statutorily appropriated, as provided in 17-7-502, to the department of justice.

(8) Unless otherwise expressly provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of this state. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 9, Ch. 397, L. 2003; amd. Sec. 6, Ch. 324, L. 2005.

16-11-510. Contested case and judicial review of attorney general determinations. A determination of the attorney general not to include or to remove from the directory a brand family or tobacco product manufacturer is subject to review by the attorney general or an employee of the department of justice designated by the attorney general to issue final decisions under this part in the manner prescribed by Title 2, chapter 4, part 6. The decision of the attorney general or designated employee constitutes the final agency decision, and judicial review may be sought from the final decision as provided in Title 2, chapter 4, part 7. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 10, Ch. 397, L. 2003.

16-11-511. Rules. The attorney general may adopt rules necessary to implement part 4 and this part. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 11, Ch. 397, L. 2003; amd. Sec. 7, Ch. 324, L. 2005.

16-11-512. Construction. If a court of competent jurisdiction finds that the provisions of 16-11-401 through 16-11-403 and of this part conflict and cannot be harmonized, then the legislature intends the provisions of 16-11-401 through 16-11-403 to control. Except as specifically provided in this part, the provisions of this part are not intended to and may not be interpreted to override the provisions of 16-11-401 through 16-11-403. *(Certain provisions void on occurrence of contingency—sec. 16, Ch. 397, L. 2003—see part compiler's comment.)*

History: En. Sec. 12, Ch. 397, L. 2003.

CHAPTER 12
MARIJUANA REGULATION AND TAXATION

Part 1 — General Provisions

16-12-101. Short title — purpose.
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Chapter Compiler's Comments

Contingent Voidness: Section 115, Ch. 576, L. 2021, provided: "If the Montana supreme court determines that Initiative Measure No. 190, approved November 3, 2020, other than the portions relating to revenue distribution, is in violation of the Montana constitution and the constitutional infirmity invalidates the entire initiative, then both Initiative Measure No. 190 and [this act] are void." Effective January 1, 2022.

Part 1
General Provisions

16-12-101. Short title — purpose. (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

(2) The purpose of this chapter is to:

(a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older;

(b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution, transportation, and sale of marijuana and marijuana products;

(c) eliminate the illicit market for marijuana and marijuana products;

(d) prevent the manufacture and distribution of synthetic cannabinoid products;

(e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;

(f) ensure the safety of marijuana and marijuana products;

(g) ensure the security of licensed premises;

(h) establish reporting requirements for licensees;

(i) establish inspection requirements for licensees, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;

(j) provide for the testing of marijuana and marijuana products by licensed testing laboratories;

(k) give local governments authority to allow for the operation of marijuana businesses in their community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

(l) tax the sale of marijuana and marijuana products to provide compensation for the economic and social costs of marijuana;

(m) authorize courts to resentence persons who are currently serving sentences for acts that are permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge those offenses from the criminal records of persons who have completed their sentences as set forth in this chapter; and

(n) preserve and protect Montana's well-established hemp industry by drawing a clear distinction between those participants and programs and the participants and programs associated with the marijuana industry.

(3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing, manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation by the department of agriculture unless expressly provided.

History: En. Sec. 1, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 37, Ch. 576, L. 2021; amd. Sec. 4, Ch. 746, L. 2023; amd. Sec. 1, Ch. 100, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 100, L. 2025. Amendment effective April 7, 2025.

16-12-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term includes holders of private loans or convertible securities.

(c) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on April 27, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse; or

(ii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp as provided in 80-18-101.

(c) The term does not include synthetic cannabinoid products.

(d) The term does not include any drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a

member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(39) "Synthetic cannabinoid" has the meaning described in 50-32-222 and includes any cannabinoid produced artificially, whether from chemical synthesis or biosynthesis using recombinant biological agents, including but not limited to yeast and algae.

(40) "Synthetic cannabinoid product" means a product that contains a synthetic cannabinoid.

(41) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

(42) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant.

History: En. Sec. 2, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 38, Ch. 576, L. 2021; amd. Sec. 1, Ch. 743, L. 2023, Sec. 12, Ch. 743, L. 2023; amd. Sec. 5, Ch. 746, L. 2023; amd. Sec. 2, Ch. 100, L. 2025; amd. Sec. 2, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 2, Ch. 100, L. 2025. Amendment effective April 7, 2025.

See 2025 Session Law for amendment made by sec. 2, Ch. 550, L. 2025. Amendment effective October 1, 2025.

16-12-103. Department authority. The department shall license and regulate the cultivation, manufacture, transport, and sale of marijuana as allowed by this chapter and shall administer and enforce this chapter.

History: **En. Sec. 3, I.M. No. 190, approved Nov. 3, 2020.**

16-12-104. Department responsibilities — licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than physical or digital versions of government-issued identification to determine the consumer's age. A licensee that scans a person's physical or digital driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter.

History: En. Sec. 4, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 39, Ch. 576, L. 2021; amd. Sec. 4, Ch. 712, L. 2023; amd. Sec. 1, Ch. 714, L. 2023; amd. Sec. 3, Ch. 115, L. 2025; amd. Sec. 1, Ch. 350, L. 2025; amd. Sec. 3, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 3, Ch. 115, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 350, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 3, Ch. 550, L. 2025. Amendment effective October 1, 2025.

Cross-References

Periodic government or tribal-issued identification data destruction, 16-3-313.

16-12-105. Department responsibility to monitor and assess marijuana production, testing, sales, and license revocation. (1) (a) The department shall implement a system for tracking marijuana and marijuana products from either the seed or the seedling stage until it is sold to a consumer or registered cardholder.

(b) The system must ensure that marijuana and marijuana products cultivated, manufactured, possessed, and sold under this chapter are not sold or otherwise provided to an individual who is under 21 years of age unless that person is a registered cardholder.

(c) The system must be made available to licensees, except that licensees shall bear the responsibility and cost for procuring unique identification tracking tags to facilitate the tracking of marijuana and marijuana products.

(2) The department shall, if technology allows, require use of a mandatory semicashless payment system occurring at the point of sale for all dispensaries. Adult-use dispensaries and medical marijuana dispensaries are required to utilize a semicashless point-of-sale system when selling marijuana and marijuana products to consumers or registered cardholders. The department may establish by rule the requirements, standards, and private company that a

licensee must use when utilizing such a system in a dispensary. The semicashless processor is authorized to make deposits to an account specified by the department for tax collection.

(3) The department is authorized to share seed-to-sale information with the licensee's depository institution, any other government agency, or the semicashless processor.

History: En. Sec. 6, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 40, Ch. 576, L. 2021.

16-12-106. Personal use and cultivation of marijuana — penalties. (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-639.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more

than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter.

History: En. Sec. 8, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 312, L. 2021; amd. Sec. 41, Ch. 576, L. 2021; amd. Sec. 5, Ch. 712, L. 2023; amd. Sec. 6, Ch. 155, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 155, L. 2025. Amendment effective October 1, 2025.

16-12-107. Legal protections — allowable amounts. (1) A cultivator may have the canopy allotment allowed by the department.

(2) Except as provided in 16-12-108, a person licensed under this chapter may not be arrested, prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action by a professional licensing board or the department of labor and industry, solely because the person cultivates, manufactures, possesses, or transports marijuana in the amounts and manner allowed under this chapter.

(3) A person may not be arrested or prosecuted for possession, conspiracy as provided in 45-4-102, or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana products as permitted under this chapter.

(4) Except as provided in 16-12-210, possession of or application for a license does not solely constitute probable cause to search a person or the property of a person or otherwise subject a person or property of a person to inspection by any governmental agency, including a law enforcement agency.

(5) The provisions of this section relating to protection from arrest or prosecution do not apply to a person unless the person has obtained a license prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that a person obtains a license after an arrest or the filing of a criminal charge.

(6) A cultivator or manufacturer is presumed to be engaged in the use of marijuana as allowed by this chapter if the person is in possession of an amount of marijuana that does not exceed the amount permitted under this chapter.

History: En. Sec. 14, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 42, Ch. 576, L. 2021.

16-12-108. Limitations of act. (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) production, delivery, distribution, purchase, or consumption of synthetic cannabinoid products;

(e) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(f) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(g) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(h) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility;

(i) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(j) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

(k) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

(l) conduct that endangers others;

(m) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or

(n) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(h)(i) through (1)(h)(iii) and (1)(i) through (1)(k) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(h)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(h)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(n) is subject to the penalties provided for in 45-9-110(3).

(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the

violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders.

History: En. Sec. 16, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 43, Ch. 576, L. 2021; amd. Sec. 6, Ch. 712, L. 2023; amd. Sec. 6, Ch. 746, L. 2023; amd. Sec. 3, Ch. 100, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 100, L. 2025. Amendment effective April 7, 2025.

16-12-109. Unlawful conduct by licensees — penalties. (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

History: En. Sec. 20, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 44, Ch. 576, L. 2021; amd. Sec. 7, Ch. 712, L. 2023.

16-12-110. Legislative monitoring. (1) The economic affairs interim committee shall provide oversight of activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana;

(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked;

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana.

History: **En. Sec. 25, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 45, Ch. 576, L. 2021; amd. Sec. 8, Ch. 712, L. 2023.**

Cross-References

Economic affairs interim committee, 5-5-223.

16-12-111. Marijuana state special revenue account — operating reserve — transfer of excess funds. (1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) The account consists of:

(a) money deposited into the account pursuant to this chapter;

(b) the taxes collected pursuant to Title 15, chapter 64, part 1;

(c) license and registered cardholder fees deposited into the account pursuant to this chapter;

(d) taxes deposited into the account pursuant to 16-12-310; and

(e) civil penalties collected under this chapter.

(3) Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the provisions of this chapter.

(4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order:

(a) 11% must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in 16-12-122;

(b) the net balance remaining after distribution to the HEART account must be distributed as follows:

(i) 20% to the habitat legacy account provided for in 87-5-811;

(ii) 4% to the state park account established in 23-1-105(1);

(iii) 4% to the trails and recreational facilities account established in 23-2-108;

(iv) 4% to the nongame wildlife account established in 87-5-121;

(v) 3% or $200,000, whichever is less, to the veterans and surviving spouses state special revenue account provided for in 10-2-108;

(vi) $150,000 to the board of crime control to fund crisis intervention team training as provided in 44-7-110; and

(vii) the remainder to the general fund.

History: **En. Sec. 35, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 46, Ch. 576, L. 2021; amd. Sec. 5, Ch. 758, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 758, L. 2025. Amendment effective July 1, 2025.

16-12-112. *(Temporary)* **Rulemaking authority — fees.** (1) The department may adopt rules to implement and administer this chapter, including:

(a) the manner in which the department will consider applications for licenses, permits, and endorsements and renewal of licenses, permits, and endorsements;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under 16-12-129;

(d) the security and operating requirements for licensees;

(e) the security and operating requirements for manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) post-processing procedures;

(f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

(g) implementation of a system to allow the tracking of marijuana and marijuana products as required by 16-12-105;

(h) labeling and packaging standards that protect public health by requiring the listing of pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and

other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;

(i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages for marijuana and marijuana products;

(j) requirements that packaging and labels may not be made to be attractive to children, that they have required warning labels as set forth in 16-12-215, and that marijuana and marijuana products be sold in resealable, child-resistant exit packaging to protect public health as provided in 16-12-208;

(k) requirements and standards for the testing and retesting of marijuana and marijuana products, including testing of samples collected during the department's inspections of licensed premises;

(l) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in 16-12-202;

(m) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana accessories that are unsafe or contaminated;

(n) the activities that constitute advertising in violation of 16-12-211 and requirements and standards for electronic advertising as permitted under 16-12-211;

(o) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana;

(p) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209;

(q) implementation of the state's ban on synthetic cannabinoids and synthetic cannabinoid products, including but not limited to identifying what constitutes a synthetic cannabinoid and identifying the process by which synthetic cannabinoids are made; and

(r) the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter.

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter.

(3) The department may consult or contract with other public agencies in carrying out its duties under this chapter.

16-12-112. *(Effective July 1, 2026)* **Rulemaking authority — fees.** (1) The department may adopt rules to implement and administer this chapter, including:

(a) the manner in which the department will consider applications for licenses, permits, and endorsements and renewal of licenses, permits, and endorsements;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under 16-12-129;

(d) the security and operating requirements for licensees;

(e) the security and operating requirements for manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) post-processing procedures;

(f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

(g) implementation of a system to allow the tracking of marijuana and marijuana products as required by 16-12-105;

(h) labeling and packaging standards that protect public health by requiring the listing of pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and

other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;

(i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages for marijuana and marijuana products;

(j) requirements that packaging and labels may not be made to be attractive to children, that they have required warning labels as set forth in 16-12-215, and that marijuana and marijuana products be sold in resealable, child-resistant exit packaging to protect public health as provided in 16-12-208;

(k) requirements for the warning posters that must be displayed at any point of sale pursuant to 16-12-215;

(l) recommended resources to provide assistance with overcoming marijuana addiction pursuant to 16-12-215;

(m) requirements and standards for the testing and retesting of marijuana and marijuana products, including testing of samples collected during the department's inspections of licensed premises;

(n) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in 16-12-202;

(o) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana accessories that are unsafe or contaminated;

(p) the activities that constitute advertising in violation of 16-12-211 and requirements and standards for electronic advertising as permitted under 16-12-211;

(q) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana;

(r) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209;

(s) implementation of the state's ban on synthetic cannabinoids and synthetic cannabinoid products, including but not limited to identifying what constitutes a synthetic cannabinoid and identifying the process by which synthetic cannabinoids are made; and

(t) the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter.

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter.

(3) The department may consult or contract with other public agencies in carrying out its duties under this chapter.

History: En. Sec. 26, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 505, L. 2021; amd. Sec. 47, Ch. 576, L. 2021; amd. Sec. 4, Ch. 100, L. 2025; amd. Sec. 1, Ch. 532, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 4, Ch. 100, L. 2025. Amendment effective April 7, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 532, L. 2025. Amendment effective July 1, 2026.

16-12-113. Decriminalized acts — petition for expungement or resentencing — retroactive application. (1) A person currently serving a sentence for an act that is permitted under this chapter or is punishable by a lesser sentence under this chapter than the person was awarded may petition for an expungement of the conviction or resentencing.

(2) Upon receiving a petition under subsection (1), the expungement or resentencing of marijuana conviction court, as provided in 16-12-114 through 16-12-116, shall presume the petitioner satisfies the criteria in subsection (1) unless the county attorney provides the court with a reasonable basis on which the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subsection (1), the court shall grant the petition unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(3) A person who is serving a sentence and is resentenced pursuant to subsection (1) must be given credit for any time already served and may not be subject to supervision.

(4) Resentencing under this section may not result in the imposition of a term longer than the original sentence or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(5) (a) A person who has completed a sentence for an act that is permitted under this chapter or is punishable by a lesser sentence under this chapter than the person was awarded may petition the sentencing court to:

(i) expunge the conviction; or

(ii) redesignate the conviction as a misdemeanor or civil infraction in accordance with this chapter.

(b) The petition must be served on the county attorney for the county where the petition is filed.

(6) Upon receiving a petition under subsection (5), the court shall presume the petitioner satisfies the criteria in subsection (5) unless the county attorney provides the court with a reasonable basis on which the petitioner does not satisfy the criteria. Once the applicant satisfies the criteria in subsection (5), the court shall redesignate the conviction as a misdemeanor or civil infraction or expunge the conviction as legally invalid pursuant to this chapter.

(7) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subsection (5).

(8) Any felony conviction that is recalled under subsection (1) or designated as a misdemeanor or civil infraction under subsection (5) must be considered a misdemeanor or civil infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subsection (1) or designated as a civil infraction under subsection (5) must be considered a civil infraction for all purposes.

(9) Nothing in this section constitutes a waiver of any right or remedy otherwise available to the petitioner or applicant.

(10) Nothing in this chapter is intended to impact the finality of judgment in any case not falling within the purview of this chapter.

(11) The provisions of this section apply equally to juvenile cases if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under this chapter.

(12) Petitioning for expungement or resentencing pursuant to this section does not make a person ineligible to petition for misdemeanor expungement pursuant to Title 46, chapter 18, part 11.

History: En. Sec. 36, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 48, Ch. 576, L. 2021.

16-12-114. Definitions. As used in 16-12-114 through 16-12-116, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Expungement or resentencing of marijuana conviction court" means the court that is responsible for determining petitions for expungement and resentencing as provided in 16-12-113.

(2) "Petition for expungement or resentencing" means a petition filed pursuant to 16-12-113 seeking expungement or resentencing of a marijuana conviction.

History: En. Sec. 101, Ch. 576, L. 2021.

16-12-115. Appointment of judge. (1) A petition for expungement or resentencing of a marijuana conviction filed as provided in 16-12-113 may be determined by a judge pro tempore or special master, who must be a member of the bar of the state, agreed on in writing by the petitioner and the county attorney, appointed by the supreme court as provided in 3-5-115, and sworn to determine whether the petitioner meets the criteria for expungement or resentencing as provided in 16-12-113. On appointment, the individual must be designated as the decriminalized marijuana conviction expungement judge.

(2) A judge appointed under subsection (1) has the authority and power of an elected district court judge in the civil action involving petitions filed as provided in 16-12-113. All proceedings must be conducted in accordance with the rules of evidence and procedure governing district courts.

(3) Any determination rendered in a petition by the judge has the same force and effect as if determined by the district court with the regular judge presiding.

(4) A party stipulating to have a petition determined by the judge appointed under subsection (1) may not file a motion for substitution of the judge pursuant to 3-1-804.

(5) All filings relating to a petition filed as provided in 16-12-113 must be filed with the clerk of court in the judicial district in which the marijuana conviction took place. The applicant and the county attorney shall provide a copy of each filing to the judge appointed as provided in subsection (1).

History: En. Sec. 102, Ch. 576, L. 2021.

16-12-116. Petition for expungement — venue. When the applicant requests a hearing, as provided in 16-12-113, the judge appointed as provided in 16-12-115 may hear the petition in any venue stipulated by the petitioner and the county attorney, as provided in 25-2-202, or in any venue otherwise determined by the judge in accordance with a stipulation of the petitioner and the county attorney. In stipulating venue, the petitioner and the county attorney shall take into consideration the availability of courtroom facilities. The judge may prepare a list of available courtroom facilities for consideration.

History: En. Sec. 103, Ch. 576, L. 2021.

16-12-117. Synthetic cannabinoid products prohibited — restriction on sale of marijuana products. (1) A person may not manufacture, process, store, or offer for sale a synthetic cannabinoid or a synthetic cannabinoid product.

(2) Marijuana and marijuana products may only be sold by a manufacturer licensed under 16-12-222, a cultivator licensed under 16-12-223, or a dispensary licensed under 16-12-224 unless the products are authorized as a drug by the United States food and drug administration. Products under this section may not exceed the potency levels established in 16-12-224.

(3) Hemp and hemp products sold by any person may not exceed 0.5 milligrams of total delta-9 THC for each serving and may not exceed 2 milligrams of total delta-9 THC per package.

(4) This section does not apply to unadulterated hemp flower that is not further processed into extracts, infused products, or concentrates.

History: En. Sec. 1, Ch. 746, L. 2023; amd. Sec. 5, Ch. 100, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 100, L. 2025. Amendment effective April 7, 2025.

16-12-118 through 16-12-121 reserved.

16-12-122. Healing and ending addiction through recovery and treatment account — report. (1) There is a healing and ending addiction through recovery and treatment account in the state special revenue fund. The account consists of money transferred to the account pursuant to 16-12-111.

(2) Revenue in the account must be used to provide statewide programs for:

(a) substance use disorder prevention;

(b) youth suicide prevention;

(c) mental health promotion; and

(d) crisis, treatment, and recovery services for substance use and mental health disorders. The services include but are not limited to crisis stabilization services as defined in 53-21-1401 and provided under Title 53, chapter 6, or Title 53, chapter 21, part 14.

(3) The programs must be designed to:

(a) increase the number of individuals choosing treatment over incarceration;

(b) improve access to, utilization of, and engagement and retention in prevention, treatment, and recovery support services;

(c) expand the availability of community-based services that reflect best practices or are evidence-based;

(d) leverage additional federal funds when available for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11, and the medicaid program provided for in Title 53, chapter 6, for the purposes of this section;

(e) provide funding for programs and services that are described in subsections (2)(a) through (2)(d) and provided on an Indian reservation located in this state; or

(f) provide funding for grants and services to tribes for use in accordance with this section.

(4) (a) An amount not to exceed $500,000, including eligible federal matching sources when applicable, must be used to provide funding for grants and services to tribes for tobacco prevention and cessation, substance use disorder prevention, mental health promotion, and substance use disorder and mental health crisis, treatment, and recovery services.

(b) The department of public health and human services shall:

(i) manage the programs funded by the special revenue account;

(ii) adopt rules to implement the programs; and

(iii) provide a written report to the children, families, health, and human services interim committee, in accordance with 5-11-210, no later than September 1 of each year on the programs, grants, and services funded under this section. The report must include the amount of funding each program received.

(5) The legislature shall appropriate money from the state special revenue account provided for in this section for:

(a) the chemical dependency treatment room and board voucher program provided for in 53-24-218; and

(b) the programs referred to in this section.

(6) Programs funded under this section must be funded through contracted services with service providers. *(Subsection (5)(a) terminates June 30, 2027—sec. 7, Ch. 187, L. 2023.)*

History: En. Sec. 100, Ch. 576, L. 2021; amd. Sec. 1, Ch. 181, L. 2023; amd. Sec. 1, Ch. 186, L. 2023; amd. Sec. 2, Ch. 187, L. 2023; amd. Sec. 1, Ch. 301, L. 2023.

16-12-123 and 16-12-124 reserved.

16-12-125. Hotline — reporting — referrals. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) A person may submit a complaint to the department alleging a violation of this chapter and specifying the grounds for the complaint.

(3) The department may provide a copy of the complaint to the person or licensee that is the subject of the complaint.

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

(5) Complaints submitted to the department are confidential and not subject to public disclosure unless or until authorized by a district court on a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure or are confidential criminal justice information pursuant to Title 44, chapter 5.

(6) The department shall make available to the public complaints about violations of 16-12-117(3), including:

(a) information regarding the types of businesses or products being reported; and

(b) any disciplinary action taken against a person in violation of 16-12-117(3).

(7) The department reports made to the legislature pursuant to 16-12-110 must include the number of investigations and complaints the department referred to law enforcement and the complaints' disposition.

History: En. Sec. 1, Ch. 576, L. 2021; amd. Sec. 9, Ch. 712, L. 2023; amd. Sec. 7, Ch. 746, L. 2023; amd. Sec. 4, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 550, L. 2025. Amendment effective October 1, 2025.

16-12-126 through 16-12-128 reserved.

16-12-129. Department to conduct background checks. (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license;

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section.

History: En. Sec. 2, Ch. 576, L. 2021; amd. Sec. 10, Ch. 712, L. 2023.

Part 2
Licensing and Regulation

16-12-201. Licensing of cultivators, manufacturers, and dispensaries. (1) (a) Between July 1, 2025, and June 30, 2027, the department:

(i) may accept applications from and issue licenses to persons qualified for licensure under this chapter only if the application is related to an existing licensed premises;

(ii) may allow a licensee to move an existing licensed premises; and

(iii) may not allow for new licensed premises.

(b) On or after July 1, 2027, the department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who were not previously licensed and for premises not previously licensed.

(2) A licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department.

History: En. Sec. 5, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 49, Ch. 576, L. 2021; amd. Sec. 2, Ch. 743, L. 2023, Sec. 11, Ch. 743, L. 2023; amd. Sec. 2, Ch. 350, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 350, L. 2025. Amendment effective July 1, 2025.

16-12-202. Testing laboratories — licensing — inspection. (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section.

(ii) The department may not issue a temporary license while an inspection is pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) On receiving an endorsement from the department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

History: En. Sec. 7, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 50, Ch. 576, L. 2021; amd. Sec. 12, Ch. 712, L. 2023.

16-12-203. Licensing types — requirements — limitations — activities. (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A licensee:

(a) may contract or otherwise arrange for another licensee to process, cultivate, or sell marijuana and marijuana products; and

(b) may contract or otherwise engage a third party to perform work on behalf of any aspect of a marijuana business. All third-party relationships must be disclosed to the department before a third party can begin performing work on behalf of any aspect of the marijuana business. An individual performing work for any aspect of a marijuana business must secure a worker permit pursuant to 16-12-226. A licensee is responsible for ensuring a third party is compliant with marijuana laws and is liable for any violations.

History: En. Sec. 9, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 51, Ch. 576, L. 2021; amd. Sec. 13, Ch. 712, L. 2023; amd. Sec. 5, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 5, Ch. 550, L. 2025. Amendment effective October 1, 2025.

16-12-204. Renumbered 16-12-221. Code Commissioner, 2021.

16-12-205. Repealed. Sec. 104, Ch. 576, L. 2021.

History: En. Sec. 11, I.M. No. 190, approved Nov. 3, 2020.

16-12-206. Testing laboratories — licensing inspections. (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders.

History: En. Sec. 12, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 53, Ch. 576, L. 2021; amd. Sec. 14, Ch. 712, L. 2023.

16-12-207. Licensing as privilege — criteria. (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship, as a school or postsecondary school other than a commercially operated school, or as a child-care facility licensed or registered by the department of public health and human services, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school or child-care facility existed on the same street.

(b) For the purposes of this subsection (3), "school" includes public and private preschools.

(c) The provisions of subsection (3)(a)(iii) apply to new license applications submitted on or after January 1, 2024.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary or medical marijuana dispensary shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder.

History: En. Sec. 13, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 54, Ch. 576, L. 2021; amd. Sec. 15, Ch. 712, L. 2023; amd. Sec. 3, Ch. 743, L. 2023.

16-12-208. Restrictions. (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, synthetic cannabinoids, synthetic cannabinoid products, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale.

History: En. Sec. 15, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 55, Ch. 576, L. 2021; amd. Sec. 16, Ch. 712, L. 2023; amd. Sec. 8, Ch. 746, L. 2023; amd. Sec. 6, Ch. 100, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 100, L. 2025. Amendment effective April 7, 2025.

16-12-209. Testing of marijuana and marijuana products. (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the department providing for retesting parameters and requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9).

History: En. Sec. 17, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 56, Ch. 576, L. 2021; amd. Sec. 17, Ch. 712, L. 2023.

16-12-210. Inspections — procedures — prohibition on inspector affiliation with licensees. (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110.

History: En. Sec. 19, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 57, Ch. 576, L. 2021; amd. Sec. 18, Ch. 712, L. 2023; amd. Sec. 3, Ch. 350, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 350, L. 2025. Amendment effective July 1, 2025.

16-12-211. Limitations on advertising — rulemaking. (1) Except as provided in subsection (3), persons with licenses may not advertise marijuana or marijuana products.

(2) A listing in a directory of businesses authorized under this chapter is not advertising for the purposes of this section.

(3) (a) A licensee may engage in electronic advertising such as maintaining a website and advertising on web applications, provided that no electronic advertisement produced by the licensee contains a statement or illustration that:

(i) is false or misleading;

(ii) promotes overconsumption of marijuana or marijuana products;

(iii) depicts the actual consumption of marijuana or marijuana products;

(iv) depicts a person under 21 years of age consuming marijuana;

(v) makes any health, therapeutic, or medicinal claims about marijuana or marijuana products; or

(vi) is designed in a way that is likely to appeal to minors and includes cartoons, animals, children, or any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to encourage consumption of marijuana by persons under 21 years of age.

(b) A licensee may not advertise marijuana or marijuana products using pop-up advertisements that display in a new internet browser window.

(c) A licensee may not direct advertising of marijuana or marijuana products toward mobile devices in the form of push notifications unless users affirmatively opt in to receiving push notifications related to marijuana or marijuana products.

(4) The department shall adopt rules to clearly identify the activities that constitute advertising that are prohibited under this section.

History: En. Sec. 24, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 2, Ch. 505, L. 2021; amd. Sec. 58, Ch. 576, L. 2021.

16-12-212 through 16-12-214 reserved.

16-12-215. *(Temporary)* **Required warning labels.** A person may not manufacture, package, sell, or transfer any marijuana or marijuana product unless the package containing the marijuana or marijuana product bears the following statements in a form required by the department:

(1) "WARNING: Consumption of marijuana may cause anxiety, agitation, paranoia, psychosis, and cannabinoid hyperemesis."

(2) "WARNING: Consumption of marijuana by pregnant women may result in fetal injury and low birth weight."

(3) "WARNING: Consumption of marijuana by nursing mothers may result in infant hyperactivity and poor cognitive function."

16-12-215. *(Effective July 1, 2026)* **Required warning labels and posters.** (1) A person may not manufacture, package, sell, or transfer any marijuana or marijuana product unless the package containing the marijuana or marijuana product bears a warning label. The text of the warning label must be displayed in a legible font, such as times new roman, arial, or helvetica, and the lowercase letter "o" must be at least one-sixteenth of an inch in height. The statement must be placed next to the universal warning symbol for marijuana and must read:

(a) "WARNING: Consumption of marijuana may cause anxiety, agitation, paranoia, psychosis, and excessive vomiting."

(b) "WARNING: Consumption of marijuana by pregnant women may result in fetal injury and low birth weight."

(c) "WARNING: Consumption of marijuana by nursing mothers may result in infant hyperactivity and poor cognitive function."

(d) "WARNING: Driving while under the influence of marijuana is a crime."

(2) Each warning statement must be printed on all forms of marijuana exit packaging.

(3) A marijuana business shall display at any point of sale a consumer education poster that includes all text warnings pursuant to this section.

(4) Each poster must:

(a) be at least 8½ inches by 11 inches in size;

(b) include the universal warning symbol for marijuana;

(c) include the text warnings pursuant to this section; and

(d) provide a website address, phone number, and quick reference code for a resource that provides assistance with overcoming marijuana addiction.

(5) Each exit package must include a quick reference code for a resource that provides consumer education assistance with overcoming marijuana addiction.

History: En. Sec. 109, Ch. 576, L. 2021; amd. Sec. 2, Ch. 532, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 532, L. 2025. Amendment effective July 1, 2026.

16-12-216 through 16-12-220 reserved.

16-12-221. Manufacturer — requirements — limitations — fees. (1) A person licensed as a manufacturer shall:

(a) prepare marijuana products at a licensed premises exclusively; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana products.

(2) All licensed premises on which marijuana products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(3) An applicant for a manufacturer license shall demonstrate that the local government approval provisions contained in 16-12-301 have been satisfied in the jurisdiction where each proposed manufacturing facility is located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) When evaluating an initial or renewal application, the department shall evaluate each proposed manufacturing facility for compliance with the provisions of 16-12-207 and 16-12-210.

(5) Marijuana products may not be considered a food or drug for the purposes of Title 50, chapter 31.

(6) (a) The department shall charge a manufacturer license fee for an initial application and at each renewal. The license fee is based on the total amount of concentrate produced under the manufacturer's license on a monthly basis. The annual fees for licensees are:

(i) $5,000 for a manufacturer licensee that produces, on a monthly basis, less than 1 pound of concentrate and up to 10 pounds of concentrate;

(ii) $10,000 for a manufacturer licensee that produces, on a monthly basis, between 10 pounds of concentrate and 15 pounds of concentrate; and

(iii) $20,000 for a manufacturer licensee that produces, on a monthly basis, 15 pounds or more of concentrate.

(b) The department may create additional fee levels as necessary.

(c) A manufacturer may apply to advance to the next licensing level in conjunction with a regular renewal application by demonstrating that its proposed additional or expanded manufacturing facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(7) The department may adopt rules:

(a) for the inspection of proposed manufacturing facilities;

(b) for investigating the amount of concentrate produced at a manufacturing facility; and

(c) for investigating owners or applicants for a determination of beneficial ownership or financial interest.

History: En. Sec. 10, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 52, Ch. 576, L. 2021; Sec. 16-12-204, MCA 2020; redes. 16-12-221 by Code Commissioner, 2021; amd. Sec. 6, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 6, Ch. 550, L. 2025. Amendment effective October 1, 2025.

16-12-222. Licensing of marijuana transporters. (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) Except as otherwise provided in this section, all persons who transport marijuana or marijuana products must hold a valid marijuana transporter license.

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter shall apply for and obtain a marijuana transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee.

History: En. Sec. 3, Ch. 576, L. 2021; amd. Sec. 19, Ch. 712, L. 2023.

16-12-223. Licensing of cultivators. (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time.

(iii) A cultivator under a combined-use license may increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation.

History: En. Sec. 4, Ch. 576, L. 2021; amd. Sec. 4, Ch. 743, L. 2023, Sec. 10, Ch. 743, L. 2023; amd. Sec. 4, Ch. 350, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 350, L. 2025. Amendment effective July 1, 2025.

16-12-224. *(Temporary)* **Licensing of dispensaries.** (1) An applicant for a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

(3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

(4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants.

(5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders.

(6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal.

(b) The dispensary license fee is $5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by $5,000 for each additional location under the same license.

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

(b) for investigating owners or applicants for a determination of financial interest; and

(c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary.

(8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited to:

(i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%.

(ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package.

(iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(vii) for any other marijuana product, no more than 800 milligrams of THC.

(c) There may be a deviation of 10% above or below the allowed amount under subsections (8)(b)(ii) through (8)(b)(vii).

(d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders.

(9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515.

16-12-224. *(Effective July 1, 2026)* **Licensing of dispensaries.** (1) An applicant for a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

(3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

(4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants.

(5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders.

(6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal.

(b) The dispensary license fee is $5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by $5,000 for each additional location under the same license.

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

(b) for investigating owners or applicants for a determination of financial interest; and

(c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary.

(8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited to:

(i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%.

(ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package.

(iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC a package. A single serving of an edible marijuana product may not exceed 5 milligrams of THC.

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(vii) for any other marijuana product, no more than 800 milligrams of THC.

(c) There may be a deviation of 10% above or below the allowed amount under subsections (8)(b)(ii) through (8)(b)(vii).

(d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders.

(9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515.

History: En. Sec. 5, Ch. 576, L. 2021; amd. Sec. 2, Ch. 714, L. 2023; amd. Sec. 5, Ch. 743, L. 2023; amd. Sec. 5, Ch. 350, L. 2025; amd. Sec. 1, Ch. 500, L. 2025; amd. Sec. 7, Ch. 550, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 5, Ch. 350, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 500, L. 2025. Amendment effective July 1, 2026.

See 2025 Session Law for amendment made by sec. 7, Ch. 550, L. 2025. Amendment effective October 1, 2025.

16-12-225. Combined-use marijuana licensing — requirements. (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one cultivator license and one dispensary license allowing for the operation of a dispensary.

(3) Initial licensure and annual fees for a combined-use license is $7,500.

(4) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(5) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(6) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(7) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior license is relinquished, lapses, or is revoked by the department.

History: En. Sec. 6, Ch. 576, L. 2021; amd. Sec. 21, Ch. 712, L. 2023; amd. Sec. 6, Ch. 743, L. 2023.

16-12-226. Marijuana worker permit — requirements. (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit shall notify the person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor.

History: En. Sec. 7, Ch. 576, L. 2021; amd. Sec. 22, Ch. 712, L. 2023.

Part 3
Local Government and Law Enforcement Authority

16-12-301. Local government authority to regulate — opt-in requirement in certain counties — exemption for existing licensees. (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201 notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201 notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the licensee has remained in good standing with the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-137 and Title 13, chapter 28, by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter.

History: En. Sec. 18, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 59, Ch. 576, L. 2021; amd. Sec. 23, Ch. 712, L. 2023; amd. Sec. 24, Ch. 225, L. 2025; amd. Sec. 6, Ch. 350, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 24, Ch. 225, L. 2025. Amendment effective April 17, 2025.

See 2025 Session Law for amendment made by sec. 6, Ch. 350, L. 2025. Amendment effective July 1, 2025.

Applicability: Section 31, Ch. 225, L. 2025, provided: "[This act] applies to any local government ballot issue submitted to a local government for placement on the ballot on or after [the effective date of this act]." Effective April 17, 2025.

Cross-References

Licensing and regulation, Title 16, ch. 12, part 2.

16-12-302. Fraudulent representation — penalties. (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

History: En. Sec. 21, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 60, Ch. 576, L. 2021; amd. Sec. 24, Ch. 712, L. 2023.

16-12-303. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person or individual with a license.

History: En. Sec. 22, I.M. No. 190, approved Nov. 3, 2020.

16-12-304. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of this chapter in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of this chapter.

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

History: En. Sec. 23, I.M. No. 190, approved Nov. 3, 2020.

16-12-305. Enforcement — ordinances — investigations — injunctions — violation. (1) A local government may, by ordinance or otherwise, impose regulations regarding products under 16-12-117(1) and (3).

(2) The department of agriculture, the department of justice, the department of public health and human services, local sheriff departments, municipal police departments, a county attorney's office, and the department of revenue may investigate any business to determine whether it is engaged in unlawful activity under 16-12-117.

(3) (a) If an investigation results in reasonable cause to believe that a violation of 16-12-117 occurred, the investigating agency may issue a cease and desist order to be served pursuant to Rule 4, M.R.Civ.P. The order is effective upon service. Proof of service constitutes notice to the person of the existence and contents of the order.

(b) The investigating agency may assess a penalty of not more than $1,000 per day for each day a cease and desist order issued under this section is violated. Fifty percent of the penalty must be deposited into the healing and ending addiction through recovery and treatment account under 16-12-122, and the remainder must be deposited in the marijuana state special revenue account under 16-12-111.

(4) (a) The investigating agency may institute and maintain in the name of the state an action for injunction or another civil remedy in district court to enforce a cease and desist order under this section. Proof of inadequacy of a legal remedy or proof of substantial or irreparable damage from continued violation is not required. It is sufficient to charge that the person engaged in the unlawful conduct subject to 16-12-117 on a certain day in a certain county without averring further or more particular facts concerning the violation.

(b) The investigating agency is entitled to its costs, including the costs of investigation and attorney fees, incurred in seeking a district court order under this section.

(c) A person who knowingly or purposely violates a district court injunction under this section is guilty of a felony and subject to the penalties set forth in 46-18-213.

(5) An officer, agent, partner, or member of a business entity who knowingly and personally participates in a violation of this section is subject to the penalties prescribed in this section.

(6) The remedies provided for in this section are in addition to and do not limit the remedies and actions otherwise permitted or required by law.

(7) A violation of 16-12-117(1) or (2) may be enforced under:

(a) criminal distribution of dangerous drugs as defined in 45-9-101;

(b) criminal possession of dangerous drugs as defined in 45-9-102; or

(c) criminal production or manufacture of dangerous drugs as defined in 45-9-110.

History: En. Sec. 2, Ch. 746, L. 2023; amd. Sec. 7, Ch. 100, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 7, Ch. 100, L. 2025. Amendment effective April 7, 2025.

16-12-306 through 16-12-308 reserved.

16-12-309. Local government taxing authority — specific delegation. As required by 7-1-112, 16-12-309 through 16-12-312, and 16-12-317 specifically delegate to the qualified electors of a county the power to authorize their county to impose a local-option marijuana excise tax within the corporate boundary of the county.

History: En. Sec. 94, Ch. 576, L. 2021.

16-12-310. Limit on local-option marijuana excise tax rate — goods subject to tax. (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of each city or town to the population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county.

History: En. Sec. 95, Ch. 576, L. 2021; amd. Sec. 25, Ch. 712, L. 2023.

16-12-311. Local government excise tax — election required — procedure — notice. (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-137 and Title 13, chapter 28, or by a resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year.

History: En. Sec. 96, Ch. 576, L. 2021; amd. Sec. 26, Ch. 712, L. 2023; amd. Sec. 25, Ch. 225, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 25, Ch. 225, L. 2025. Amendment effective April 17, 2025.

Applicability: Section 31, Ch. 225, L. 2025, provided: "[This act] applies to any local government ballot issue submitted to a local government for placement on the ballot on or after [the effective date of this act]." Effective April 17, 2025.

16-12-312. Tax administration. (1) Not less than 90 days prior to the date that the local-option marijuana excise tax becomes effective, the county shall notify the department of the results of the election and coordinate with the department to facilitate the administration and collection of the local-option marijuana excise taxes.

(2) The department shall establish by rule:

(a) the times that taxes collected by businesses are to be remitted to the department;

(b) the office or employee of the department responsible for receiving and accounting for the local-option marijuana excise tax receipts;

(c) the office or employee of the department responsible for enforcing the collection of local-option marijuana excise taxes and the methods and procedures to be used in enforcing the collection of local-option marijuana excise taxes due; and

(d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include:

(i) criminal penalties not to exceed a fine of $1,000 or 6 months' imprisonment, or both;

(ii) civil penalties if the department prevails in a suit for the collection of local-option marijuana excise taxes, not to exceed 50% of the local-option marijuana excise taxes found due plus the costs and attorney fees incurred by the department in the action;

(iii) revocation of an adult-use dispensary license or medical marijuana dispensary license held by the offender; and

(iv) any other penalties that may be applicable for violation of an ordinance.

(3) The department's rules may also include:

(a) further clarification and specificity in the categories of goods that are subject to the local-option marijuana excise tax;

(b) authorization for business administration and prepayment discounts. The discount authorization may allow each vendor and commercial establishment to withhold up to 5% of the local-option marijuana excise taxes collected to defray their costs for the administration of the tax collection.

(c) other administrative details necessary for the efficient and effective administration of the tax.

(4) A county and the department may exchange information collected under the provisions of this chapter that is necessary to implement and administer a local-option marijuana excise tax or the tax collected under Title 15, chapter 64, part 1.

History: En. Sec. 97, Ch. 576, L. 2021.

16-12-313 through 16-12-316 reserved.

16-12-317. Use of local-option marijuana excise tax revenue. Unless otherwise restricted, a county or municipality may appropriate and expend revenue derived from a local-option marijuana excise tax for any activity, undertaking, or administrative service that the municipality is authorized by law to perform, including costs resulting from the imposition of the tax or due to administrative burdens imposed on the municipality as a result of licensing or regulatory requirements imposed in this chapter.

History: En. Sec. 98, Ch. 576, L. 2021.

Part 4
Marijuana Taxation
(Repealed)

16-12-401. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 27, I.M. No. 190, approved Nov. 3, 2020.

16-12-402. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 28, I.M. No. 190, approved Nov. 3, 2020.

16-12-403. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 29, I.M. No. 190, approved Nov. 3, 2020.

16-12-404. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 30, I.M. No. 190, approved Nov. 3, 2020.

16-12-405. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 31, I.M. No. 190, approved Nov. 3, 2020.

16-12-406. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 32, I.M. No. 190, approved Nov. 3, 2020.

16-12-407. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 33, I.M. No. 190, approved Nov. 3, 2020.

16-12-408. Repealed. Sec. 104, Ch. 576, L. 2021.
History: En. Sec. 34, I.M. No. 190, approved Nov. 3, 2020.

Part 5
Medical Marijuana

16-12-501. Purpose. The purpose of this part is to:

(1) provide a regulatory system for providing marijuana for the use of individuals with debilitating medical conditions, including posttraumatic stress disorder, in order to alleviate the symptoms of the debilitating medical condition;

(2) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this chapter;

(3) allow persons to assist registered cardholders with the cultivation of marijuana and manufacture of marijuana products permitted by this chapter.

(4) provide for a registry of individuals with debilitating medical conditions entitled to purchase marijuana and marijuana products at the tax rate specified in 15-64-102; and

(5) provide the process for obtaining a registry identification card.

History: En. Sec. 9, Ch. 576, L. 2021.

16-12-502. Definitions. As used in this part, the following definitions apply:

(1) "Referral physician" means an individual who:

(a) is licensed under Title 37, chapter 3; and

(b) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(2) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(3) "Telemedicine" has the meaning provided in 37-3-102.

(4) "Treating physician" means an individual who:

(a) is licensed under Title 37, chapter 3; and

(b) has a bona fide professional relationship with the individual applying to be a registered cardholder.

(5) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of 16-12-509 and is provided in a manner that meets the standard of care.

History: En. Sec. 10, Ch. 576, L. 2021.

16-12-503. Medical marijuana registry — department responsibilities — issuance of cards — confidentiality. (1) The department shall establish and maintain a registry of persons who receive registry identification cards under this part.

(2) The department shall issue registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part.

(3) (a) Registry identification cards issued pursuant to this part must:

(i) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(ii) state the name, address, and date of birth of the registered cardholder;

(iii) indicate whether the cardholder is obtaining marijuana and marijuana products through the system of licensed cultivators, manufacturers, or dispensaries;

(iv) state the date of issuance and the expiration date of the registry identification card;

(v) contain a unique identification number; and

(vi) contain other information that the department may specify by rule.

(b) Except as provided in subsection (3)(c), in addition to complying with subsection (3)(a), registry identification cards issued pursuant to this part must:

(i) include a picture of the registered cardholder; and

(ii) be capable of being used to track registered cardholder purchases.

(c) (i) The department shall issue a temporary registry identification card on receipt of an application. The cards are valid for 60 days and are exempt from the requirements of subsection (3)(b). Printing of the temporary registry identification cards is exempt from the provisions of Title 18, chapter 7.

(ii) A card may be issued before an applicant's payment of the fee has cleared. The department shall cancel the temporary registry identification card after 60 days and may not issue a permanent registry identification card until the fee is paid.

(4) (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) If the department fails to act on a completed application within 30 days of receipt, the department shall refund the fee paid by an applicant for a registry identification card.

(c) Applications that are not processed within 30 days of receipt remain active until the department takes final action.

(d) The department shall issue a registry identification card within 5 days of approving an application or renewal.

(5) Review of a rejection of an application or renewal may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act.

(6) Registry identification cards expire 1 year after the date of issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of time.

(7) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, or physician or a change in the status of the cardholder's debilitating medical condition within 10 days of the change.

(b) If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and is not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department;

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card;

(c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure; and

(d) another person or entity when the information pertains to a cardholder who has given written consent to the release and has specified:

(i) the type of information to be released; and

(ii) the person or entity to whom it may be released.

History: En. Sec. 11, Ch. 576, L. 2021.

16-12-504 through 16-12-507 reserved.

16-12-508. Individuals with debilitating medical conditions — requirements — minors — limitations. (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products intended for use by a means other than smoking and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court.

History: En. Sec. 12, Ch. 576, L. 2021; amd. Sec. 27, Ch. 712, L. 2023.

16-12-509. Written certification — accompanying statements. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the patient's treating physician and that the patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the patient; or

(ii) the patient's referral physician;

(b) confirm that the patient suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of telemedicine, that included a personal review of any medical records maintained by other physicians and that may have included the patient's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the patient and has considered the potential drug interaction with marijuana;

(g) state that the physician has a reasonable degree of certainty that the patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(h) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the patient;

(i) list restrictions on the patient's activities due to the use of marijuana;

(j) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(k) state that the physician will:

(i) continue to serve as the patient's treating physician or referral physician; and

(ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(l) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) A physician who is providing written certification through the use of telemedicine:

(a) shall comply with the administrative rules adopted for telemedicine by the board of medical examiners provided for in 2-15-1731; and

(b) may not use an audio-only visit unless the physician has first established a physician-patient relationship through an in-person encounter.

(5) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

(6) The department shall provide the board of medical examiners with the name of any physician who provides a written certification for 39 or more patients within any given calendar year. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care. The physician whose practices are under review shall pay the costs of the board's review activities.

History: En. Sec. 13, Ch. 576, L. 2021; amd. Sec. 7, Ch. 743, L. 2023.

16-12-510 through 16-12-512 reserved.

16-12-513. Registry identification card to be exhibited on demand — photo identification required. (1) A registered cardholder shall keep the individual's registry identification card in the individual's immediate possession at all times. The registry identification card and a valid photo identification must be displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

(2) The department shall ensure that law enforcement officers have access to accurate and up-to-date information on persons registered under this part.

(3) Beginning on January 1, 2022, a registered cardholder may request, at their next annual renewal, that the department include on his or her registry identification card the name of up to two individuals who are authorized to acquire and deliver marijuana or marijuana products to the cardholder from a licensed dispensary. Any individual so identified must be at least 21 years of age, possess the registry identification card at all relevant times, and otherwise comply with the daily possession limits set forth in this chapter and rules adopted by the department.

History: En. Sec. 14, Ch. 576, L. 2021.

16-12-514. Health care facility procedures for patients with marijuana for use. (1) (a) A health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's cultivator, manufacturer, or medical marijuana dispensary, court-appointed guardian, or individual with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A cultivator, manufacturer, or medical marijuana dispensary, court-appointed guardian, or individual with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

History: En. Sec. 15, Ch. 576, L. 2021.

16-12-515. Legal protections — allowable amounts. (1) (a) A registered cardholder who has elected to obtain marijuana and marijuana products through the system of licensed cultivators, manufacturers, or dispensaries may:

(i) possess up to 1 ounce of usable marijuana; and

(ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of usable marijuana a day.

(b) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the physician who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding the monthly limit.

(ii) If the department approves an exception to the limit, the approval must establish the monthly amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-sale tracking system.

(2) Except as provided in 16-12-108 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana products as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana in excess of the amounts otherwise provided in this chapter and is not a registered cardholder.

(6) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or individual or the property of the person or individual or otherwise subject the person or individual or property of the person or individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder is presumed to be engaged in the use of marijuana as allowed by this part if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition and exceeded the allowable amount of marijuana otherwise provided for in this part.

History: En. Sec. 16, Ch. 576, L. 2021.

16-12-516 through 16-12-519 reserved.

16-12-520. Prohibitions on physician affiliation with licensees — sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a person licensed under this chapter;

(ii) offer a discount or any other thing of value to a patient who uses or agrees to use a person licensed under this chapter; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a licensed premises or a testing laboratory.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a person licensed under this chapter if the physician charges the individual the same fee that the physician charges other patients for providing a similar level of medical care.

(2) A person licensed under this chapter may not:

(a) arrange for a physician to conduct a physical examination or review of medical records required under this part, either in the physician's office or at another location; or

(b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of obtaining a written certification.

(3) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall

restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(5) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition.

(6) (a) If the department has reason to believe a person licensed under this chapter has violated this section, the department shall refer the matter to the law enforcement entity and county attorney having jurisdiction where the person licensed under this chapter is doing business.

(b) If a person licensed under this chapter is found to have violated the provisions of this section, the department shall revoke the person's license. A person whose license has been revoked for a violation of this section is prohibited from reapplying for licensure under this chapter.

(7) (a) A law enforcement entity or county attorney who investigates a suspected violation of this section shall report the results of the investigation to the department.

(b) The department may receive the results of this investigation even if the information constitutes confidential criminal justice information as defined in 44-5-103.

History: En. Sec. 17, Ch. 576, L. 2021.

16-12-521 and 16-12-522 reserved.

16-12-523. Unlawful conduct by cardholders — penalties. (1) The department shall revoke and may not reissue the registry identification card of an individual who:

(a) is convicted of a drug offense; or

(b) allows another individual to be in possession of the individual's:

(i) registry identification card, except as provided for in 16-12-513; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana products.

(2) If no other penalty is specified under this part, a registered cardholder who violates this part is punishable by a fine not to exceed $500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

(3) Review of a department action imposing a fine, suspension, or revocation under this section must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

History: En. Sec. 18, Ch. 576, L. 2021.

16-12-524. Repealed. Sec. 29, Ch. 712, L. 2023.

History: En. Sec. 19, Ch. 576, L. 2021.

16-12-525. Confidentiality of registry information — penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of this part.

(2) A person convicted of a violation of this section shall be fined not to exceed $1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

History: En. Sec. 20, Ch. 576, L. 2021.

16-12-526. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to an individual with a registry identification card.

History: En. Sec. 21, Ch. 576, L. 2021.

16-12-527 through 16-12-531 reserved.

16-12-532. Repealed. Sec. 29, Ch. 712, L. 2023.

History: En. Sec. 22, Ch. 576, L. 2021.

16-12-533. Rulemaking authority — fees. The department may adopt rules to implement this part as authorized in this section to specify:

(1) the manner in which the department will consider applications for registry identification cards for individuals with debilitating medical conditions and renewal of registry identification cards;

(2) the acceptable forms of proof of Montana residency;

(3) notice and contested case hearing procedures for fines or registry identification card revocation, suspension, or modification;

(4) the procedures for obtaining fingerprints for the fingerprint and background check required under 16-12-508;

(5) the amount of usable marijuana that a registered cardholder who has elected not to use the system of licensees provided for under this chapter may possess; and

(6) the fees for cardholders. The annual cardholder license fee may not be less than $20.

History: En. Sec. 23, Ch. 576, L. 2021.

TITLE 17
STATE FINANCE

Ch.
1. General Administration.
2. Accounting.
3. Federal Revenues and Endowments.
4. Debt Collection.
5. Public Bond Issues.
6. Deposits and Investments.
7. Budgeting and Appropriations.
8. Disbursement and Expenditure.

CHAPTER 1
GENERAL ADMINISTRATION

Part 1 — General Administration and Fiscal Officers

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17-1-102. Uniform accounting system and expenditure control.
17-1-103. Assistance to legislature.
17-1-104. Definitions.
17-1-105. Statewide cost allocation plan.
17-1-106. Agency recovery of indirect costs — exemption.
17-1-107. Agency recovery of costs for services rendered — invoice — payment deadline — interest.
17-1-108 through 17-1-110 reserved.
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17-1-506. Review of legislation.
17-1-507. Principles of revenue dedication.
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17-1-509 reserved.
17-1-510. Repealed.
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Part 6 — Dedication of Revenue to Local Governments (Repealed)

Part 7 — Tribal Government Loans

17-1-701. Loans with Indian tribal governments.
17-1-702. Incurrence of certain general obligations related to Indian tribal governments.

Chapter Cross-References

Auditing officer to require affidavits of other officers — accounts, 2-2-205.
Personnel administration, 2-18-102.
Duty of Legislative Auditor to report violations of statute disclosed by audit, 5-13-304.
Duty of agency head to report violations of statute to Attorney General and Legislative Auditor, 5-13-309.
Public Contracts, Title 18.

Part 1
General Administration and Fiscal Officers

Part Cross-References

Audits of political subdivisions, Title 2, ch. 7, part 5.
Budget Director — preparation of fiscal note, 5-4-203.
Duties of Legislative Fiscal Analyst, 5-12-302.
Budget Director — approval of budget amendments, 5-12-401.

17-1-101. Definition of department. Except in chapter 3, part 3, and unless the context requires otherwise, in this title, "department" means the department of administration provided for in Title 2, chapter 15, part 10.

History: En. 82-108.1 by Sec. 44, Ch. 326, L. 1974; R.C.M. 1947, 82-108.1; amd. Sec. 6, Ch. 325, L. 1995.

17-1-102. Uniform accounting system and expenditure control. (1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees may be eliminated, public service may be improved, and the cost of government may be reduced.

(2) The department shall prescribe and install a uniform accounting and reporting system for all state agencies and institutions, reporting the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles.

(3) The uniform accounting and reporting system must contain three levels of expenditure. The first level must include general categories, such as personal services, operating expenses, equipment, capital outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include specific categories of expenditures within each first-level category. The third level of expenditure must include specific items of expenditure within each category of the second level.

(4) (a) Except as provided in subsection (4)(b), all state agencies, including units of the university system but excluding community colleges, shall input all necessary transactions to the accounting system prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present the receipt, use, and disposition of all money and property for which the agency is accountable in accordance with generally accepted accounting principles, except that for budgetary control purposes, encumbrances that are required by generally accepted accounting principles to be reported as a reservation of fund balance must be recorded as expenditures and liabilities on the accounting records in accordance with the following requirements:

(i) Goods and services, grants, and local assistance that are paid for with the general fund, in whole or in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a specific extension plan must be presented by the encumbering agency to the department prior to the fiscal yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance at fiscal yearend.

(ii) Nongeneral fund encumbrances also require a valid extension plan approved by the department at the end of each fiscal year.

(b) The state fund provided for in Title 39, chapter 71, part 23, shall report on a calendar year basis.

History: (1)En. Sec. 4, Ch. 194, L. 1951; amd. Sec. 1, Ch. 101, L. 1953; amd. Sec. 8, Ch. 158, L. 1959; amd. Sec. 3, Ch. 267, L. 1971; amd. Sec. 45, Ch. 326, L. 1974; 82-109, R.C.M. 1947; (2), (3)En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971; amd. Sec. 50, Ch. 326, L. 1974; Sec. 82-110, R.C.M. 1947; R.C.M. 1947, 82-109(1), 82-110(1), (2); amd. Sec. 1, Ch. 267, L. 1985; amd. Sec. 2, Ch. 787, L. 1991; amd. Sec. 3, Ch. 308, L. 1995; amd. Sec. 1, Ch. 48, L. 1997; amd. Sec. 2, Ch. 569, L. 2001; amd. Sec. 4, Ch. 120, L. 2013; amd. Sec. 3, Ch. 320, L. 2015; amd. Sec. 37, Ch. 261, L. 2021; amd. Sec. 3, Ch. 460, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 460, L. 2025. Amendment effective October 1, 2025.

17-1-103. Assistance to legislature. (1) The department shall make all reports and submit all information and data the legislature requests and, when requested, attend all meetings of the appropriations committee of the house of representatives and of the finance and claims committee of the senate.

(2) The department shall, during the consideration of appropriation measures by the house and senate, devote as much of its time as may be required by the committees, under the direction of the presiding officers of the committees.

History: En. Sec. 11, Ch. 194, L. 1951; amd. Sec. 35, Ch. 93, L. 1969; amd. Sec. 51, Ch. 326, L. 1974; R.C.M. 1947, 82-111; amd. Sec. 211, Ch. 56, L. 2009.

Cross-References

The Legislative Finance Act, Title 5, ch. 12.

17-1-104. Definitions. As used in this chapter, the following definitions apply:

(1) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other administrative units of state government.

(2) "Indirect costs" means costs for services that benefit more than one agency or program and that are not readily assignable to the agency or program specifically benefiting.

History: En. Sec. 1, Ch. 121, L. 2005.

17-1-105. Statewide cost allocation plan. (1) The director of the department shall annually prepare a statewide cost allocation plan distributing service agency indirect costs among the agencies, in accordance with principles and procedures established by applicable regulations and guidelines.

(2) An agency required to pay costs under the statewide cost allocation plan shall make payments in four equal installments, due no later than October 1, January 1, March 1, and June 1 of each fiscal year, by depositing the payments into the general fund.

History: En. 79-1021 by Sec. 2, Ch. 223, L. 1975; R.C.M. 1947, 79-1021; amd. Sec. 1, Ch. 579, L. 1983; amd. Sec. 2, Ch. 121, L. 2005; Sec. 17-3-110, MCA 2003; redes. 17-1-105 by Sec. 5, Ch. 121, L. 2005.

17-1-106. Agency recovery of indirect costs — exemption. (1) Except as provided in 80-7-1004 and subsections (3) and (4) of this section, an agency receiving nongeneral funds shall, in accordance with all applicable regulations, guidelines, or grant rules governing those funds, negotiate indirect cost reimbursement amounts and methodologies so that the agency may recover indirect costs.

(2) An agency, except for a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and must receive written approval from its approving authority prior to accepting the funds.

(3) The department of transportation may not recover indirect costs from a local government for the community transportation enhancement program.

(4) The department of transportation may not recover indirect costs for administration of a U.S. federal transit administration grant, including but not limited to grants provided for in 49 U.S.C. 5310, 49 U.S.C. 5311, 49 U.S.C. 5316, and 49 U.S.C. 5317, from a local government, nonprofit organization, or public transportation provider that provides transit services.

(5) An agency, except for a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are otherwise allowable costs under the program, except for intra-agency or interagency grants or contracts. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

(6) Each agency receiving federal funds and not directly charging a grant or program for the recovery of indirect costs shall submit an indirect cost proposal to the appropriate federal

agency. The department shall provide technical assistance to an agency on how to build an indirect cost proposal.

(7) Except as provided for a unit of the university system under 20-25-427, indirect costs recovered by an agency to pay the agency's indirect costs under 17-1-105 must be deposited as provided in 17-1-105. All other indirect costs must be deposited in the fund from which the indirect costs were originally paid.

History: En. 79-1022 by Sec. 3, Ch. 223, L. 1975; R.C.M. 1947, 79-1022; amd. Sec. 1, Ch. 37, Sp. L. November 1993; amd. Sec. 1, Ch. 14, Sp. L. August 2002; amd. Sec. 3, Ch. 121, L. 2005; Sec. 17-3-111, MCA 2003; redes. 17-1-106 by Sec. 5, Ch. 121, L. 2005; amd. Sec. 1, Ch. 462, L. 2009; amd. Sec. 12, Ch. 489, L. 2009; amd. Sec. 1, Ch. 70, L. 2011; amd. Sec. 4, Ch. 387, L. 2017.

17-1-107. Agency recovery of costs for services rendered — invoice — payment deadline — interest. (1) A state agency rendering services to another state agency shall invoice the other state agency within 60 days of rendering services.

(2) An invoiced state agency shall pay the another state agency's invoice in full within the time specified in a written agreement between the agencies, or within 60 days of receipt of a properly completed invoice or by the end of the state fiscal yearend, whichever occurs first.

History: En. Sec. 1, Ch. 249, L. 2023.

17-1-108 through 17-1-110 reserved.

17-1-111. General fiscal duties of state treasurer. (1) The state treasurer is the custodian of all money and securities of the state unless otherwise expressly provided by law.

(2) It is the duty of the state treasurer to:

(a) receive and account for all money belonging to the state, not expressly required by law to be received and kept by some other person;

(b) pay warrants out of the funds upon which they are drawn;

(c) upon payment of any warrant, record the receipt of the person to whom it is paid;

(d) keep an account of all money received and disbursed;

(e) at the request of either house of the legislature or of any legislative committee, give information in writing as to the condition of the treasury or on any subject relating to the duties of the office of state treasurer;

(f) superintend the fiscal concerns of the state;

(g) suggest plans for the improvement and management of the public revenue;

(h) keep an account of all warrants drawn upon the treasury and of other appropriation records that the treasurer determines to be essential for the support of the accounting records maintained in the department;

(i) keep a register of warrants, showing the fund upon which each warrant is drawn, each warrant's number, who received the warrant, and the date issued;

(j) require all persons who have received money belonging to the state but who have not accounted for it to settle their accounts;

(k) draw warrants on the state treasury for the payment of money directed by law to be paid out of the treasury, except that a warrant may not be drawn unless authorized by law;

(l) authenticate with the official seal of the state all warrants drawn and all copies of papers issued from the office of state treasurer;

(m) collect and pay into the state treasury all fees received;

(n) discharge other duties as may be imposed upon the state treasurer by law; and

(o) provide information through the state's official internet website detailing how donations can be made to the state general fund or to any function of state government.

History: En. Sec. 440, Pol. C. 1895; re-en. Sec. 179, Rev. C. 1907; re-en. Sec. 174, R.C.M. 1921; Cal. Pol. C. Sec. 452; re-en. Sec. 174, R.C.M. 1935; amd. Sec. 8, Ch. 147, L. 1963; amd. Sec. 1, Ch. 152, L. 1971; amd. Sec. 1, Ch. 269, L. 1973; R.C.M. 1947, 79-201(1) thru (7); amd. Sec. 1, Ch. 70, L. 1979; amd. Sec. 7, Ch. 325, L. 1995; amd. Sec. 2, Ch. 48, L. 1997; amd. Sec. 1, Ch. 607, L. 2003.

Cross-References

Strict accountability, Art. VIII, sec. 12, Mont. Const.
Prohibited payments, Art. VIII, sec. 14, Mont. Const.
Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.
Maintenance of fund and account records and interfund loans, 17-2-105.
State money — deposit, 17-6-101.
State money — how expended by Treasurer, 17-8-301.
Payment, registry, and interest, 17-8-304.

17-1-112. Access to offices. The state treasurer has full access to all offices of the state for inspection of books, papers, and accounts that concern the state treasurer's duties.

History: En. Sec. 447, Pol. C. 1895; re-en. Sec. 187, Rev. C. 1907; re-en. Sec. 186, R.C.M. 1921; re-en. Sec. 186, R.C.M. 1935; R.C.M. 1947, 79-805; amd. Sec. 212, Ch. 56, L. 2009.

Cross-References

Public records management, Title 2, ch. 6, parts 10 and 11.

17-1-113. Securities lending program. The state treasurer may, subject to the approval of the state board of investments, establish a securities lending program for all securities held in custody under 17-1-111. All loaned securities must be secured by equivalent securities of the same class in an amount equal to at least 100% of the market value of the loaned securities as determined by the board. All fees and proceeds earned by the securities lending program must be deposited pro rata in the funds that loaned the securities.

History: En. Sec. 1, Ch. 272, L. 1981.

Cross-References

Investment of public funds, Art. VIII, sec. 13, Mont. Const.

Board of Investments — allocation — composition — quasi-judicial, 2-15-1808.

State money — deposit, 17-6-101.

17-1-114 through 17-1-120 reserved.

17-1-121. Repealed. Sec. 35, Ch. 325, L. 1995.

History: En. Sec. 420, Pol. C. 1895; re-en. Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-101(1) thru (6), (9), (14), (15), (18), (19).

17-1-122. Discretionary authority of state treasurer. The state treasurer may:

(1) inspect the books of any persons charged with the receipt, safekeeping, or disbursement of public money;

(2) require all persons who have received money or who have had the disposition or management of any property of the state of which an account is kept in the department to render statements to the treasurer. A statement must be rendered at times and in the form prescribed by the department.

(3) promulgate rules regarding the distribution and processing of warrants issued; and

(4) establish a system of filing and storage of the original copy of claims paid by state warrant.

History: En. Sec. 420, Pol. C. 1895; re-en. Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-101(10), (11), (16), (20); amd. Sec. 8, Ch. 325, L. 1995.

Cross-References

Public records management, Title 2, ch. 6, parts 10 and 11.

Audits of political subdivisions, Title 2, ch. 7, part 5.

17-1-123. Repealed. Sec. 13, Ch. 48, L. 1997.

History: En. Sec. 426, Pol. C. 1895; re-en. Sec. 176, Rev. C. 1907; re-en. Sec. 156, R.C.M. 1921; re-en. Sec. 156, R.C.M. 1935; R.C.M. 1947, 79-106.

17-1-124. Authority of state auditor concerning securities. The state auditor may require a person who has received securities of which the auditor keeps account to render to the auditor a statement concerning the securities. The statement must be made at the time and in the form prescribed by the auditor.

History: En. Sec. 9, Ch. 325, L. 1995.

Cross-References

Securities regulation, Title 30, ch. 10.

17-1-125 through 17-1-130 reserved.

17-1-131. General duties of budget director. (1) The budget director in addition to the duties set forth in Title 17, chapter 7, shall perform other duties that the governor as chief budget officer of the state may direct.

(2) The budget director shall, as often as requested by the governor, prepare and furnish reports to the governor concerning appropriations made by the legislature and the receipts and disbursements made by any department, office, or institution of the state.

(3) The budget director must be available to all standing committees of the house of representatives and the senate concerned with appropriations, revenue, finance, and claims and shall furnish to the committees any information required while the committees are considering the budget.

History: En. Sec. 6, Ch. 158, L. 1959; amd. Sec. 6, Ch. 282, L. 1974; R.C.M. 1947, 79-1017; amd. Sec. 213, Ch. 56, L. 2009.

Cross-References

Balanced budget, Art. VIII, sec. 9, Mont. Const.
Powers and duties of Governor, 2-15-201.
The Legislative Finance Act, Title 5, ch. 12.
Governor chief budget officer — appointment of Budget Director, 17-7-103.

17-1-132. Access to information. (1) The budget director has the power to demand and receive from every department, officer, board, commission, or institution, at any time, any and all information requested.

(2) The budget director may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(3) When confidential records and information are obtained from a state agency, the budget director and staff are subject to the same penalties for unauthorized disclosure of the confidential records and information as are provided for under the laws administered by the state agency. The budget director shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies.

(4) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the budget director that specified records or information may contain confidential information.

History: En. Sec. 7, Ch. 158, L. 1959; amd. Sec. 7, Ch. 282, L. 1974; R.C.M. 1947, 79-1018; amd. Sec. 5, Ch. 70, L. 2007.

Cross-References

Public records management, Title 2, ch. 6, parts 10 and 11.

Part 2
Anticipation of Revenue

Part Cross-References

Local government — tax and revenue anticipation notes, Title 7, ch. 6, part 11.
Board of Investments — bond anticipation notes, 17-5-1507, 17-5-1606.

17-1-201. Issuance of notes in anticipation of revenue. (1) The board of examiners, upon recommendation of the department of administration, may issue notes in anticipation of the receipt of taxes or revenues, direct or indirect, as the legal demands on the treasury during any fiscal year render it necessary.

(2) The notes issued in any fiscal year shall be for the purposes and within the amounts of appropriations made for the fiscal year and must be designated tax or revenue anticipation notes. Appropriations during any biennium are limited to projected revenue, exclusive of notes issued in anticipation of revenue.

History: En. Sec. 1, Ch. 658, L. 1979.

Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.
Use of loan proceeds, Art. VIII, sec. 11, Mont. Const.
Prohibited payments, Art. VIII, sec. 14, Mont. Const.
Board of Examiners — allocations, 2-15-1007.

17-1-202. Repealed. Sec. 1, Ch. 2, Sp. L. June 1986.

History: En. Sec. 2, Ch. 658, L. 1979; amd. Sec. 1, Ch. 577, L. 1981.

17-1-203. Interest rate. The notes shall bear interest at such rate as, in the judgment of the board of examiners, may be sufficient or necessary to effect the issuance and sale of the notes in the manner determined by the board of examiners upon recommendation of the department of administration.

History: En. Sec. 3, Ch. 658, L. 1979.

Cross-References

Legal interest, 31-1-106.

17-1-204. Payment — pledge of taxes and revenue — costs of issuance. (1) The notes and interest on the notes must be paid from taxes and revenues not later than the end of the fiscal year in which issued.

(2) The full faith and credit and taxing power of the state are pledged for the payment of all notes issued under this part. In furtherance of this pledge, if there are insufficient funds in the general fund to pay the notes and interest on the notes when due, the department shall transfer available funds from any fund of the state, except pension trust funds, to the general fund to pay the notes and interest. The transfer is considered a loan to the general fund subject to the provisions of 17-2-105.

(3) The department may pay all costs of issuance of notes issued under this part, including without limitation interest, rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the notes, line of credit fees and charges, and all other amounts related to the costs of issuing the notes. Payment of costs must be made from amounts available from the proceeds of the notes upon deposit in the general fund.

History: En. Sec. 4, Ch. 658, L. 1979; amd. Sec. 2, Ch. 577, L. 1981; amd. Sec. 1, Ch. 49, L. 1985; amd. Sec. 1, Ch. 47, L. 1995.

Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.

Part 3 reserved

Part 4
Montana Growth and Opportunity Trust

Part Compiler's Comments

Effective Date: Section 46, Ch. 775, L. 2025, provided that this part is effective on passage and approval. Approved June 19, 2025.

17-1-401. Montana growth and opportunity trust. (1) There is a Montana growth and opportunity trust in the permanent fund type funded by annual transfers of volatile revenues as provided for in 17-1-405. The trust is administered by the department of revenue.

(2) Transfers into the trust are deposited as follows:

(a) one-half into the distribution portion of the trust; and

(b) one-half into the reinvestment portion of the trust.

(3) (a) Money deposited in the account established in this section must be invested by the board of investments as provided by law.

(b) If allowed by law, the board of investments may invest funds in the trust in higher-yielding investments.

(4) A bill appropriating funds from the corpus of the trust must be treated in the same manner as a bill creating state debt and requires a vote of two-thirds of the members of each house of the legislature for passage.

History: En. Sec. 1, Ch. 775, L. 2025.

17-1-402. Distributions from Montana growth and opportunity trust. (1) Except as provided in subsection (3), interest earnings from the transfers into the distribution portion of the Montana growth and opportunity trust established in 17-1-401 are allocated as follows:

(a) 40% to the state property tax assistance account established in 15-6-702, up to $20 million a year;

(b) 20% to the Montana water development state special revenue account established in 85-1-320, up to $10 million a year;

(c) 20% to the better local bridge state special revenue account established in 60-2-212, up to $10 million a year; and

(d) 20% to the Montana early childhood state special revenue account established in 52-2-1002, up to $10 million a year.

(2) Any remaining interest earnings after the distribution in subsection (1) must be transferred into the Montana growth and opportunity trust established in 17-1-401.

(3) (a) By August 15 of each year, the state treasurer shall determine whether the previous fiscal year ending fund balance of an account referenced in subsection (1) is greater than the

appropriation to the same account for the current year. If the account's ending fund balance exceeds the appropriation, the difference remains in the distribution portion of the trust and is not transferred into that account.

(b) This subsection (3) does not apply to transfers into the state property tax assistance account.

History: En. Sec. 2, Ch. 775, L. 2025.

17-1-403. Reinvestment of growth and opportunity trust. Transfers into the reinvestment portion of the Montana growth and opportunity trust established in 17-1-401 are allocated as follows:

(1) 80% to the pension fund provided for in 17-7-135 until the balance in the fund equals $1 billion; and

(2) 20% to a Montana housing trust provided for in 90-6-150 until the balance in the Montana housing trust equals $500 million.

(3) Any remaining transfer amount must remain in the reinvestment portion of the trust and is not allocated to any purpose.

History: En. Sec. 3, Ch. 775, L. 2025.

17-1-404. Interest earnings. Interest earnings from the distribution portion and the pension fund within the growth and opportunity trust are combined for the purposes of calculating the total amount of interest earnings and are distributed as follows:

(1) 50% pursuant to the accounts which comprise the distribution portion of the trust in the percentages set forth in 17-1-402; and

(2) 50% to the pension fund established in 17-7-135.

History: En. Sec. 4, Ch. 775, L. 2025.

17-1-405. Volatile revenue — transfer to Montana growth and opportunity trust. (1) Except as provided in subsection (6), in the fiscal year beginning July 1, 2027, and in each subsequent fiscal year until June 30, 2035, by November 1, the state treasurer shall calculate the amount of volatile revenue from the general fund for that fiscal year. The state treasurer shall transfer 17.5% of the amount of volatile revenue by November 1 and 17.5% of the amount of volatile revenue by May 1 to the Montana growth and opportunity trust established in 17-1-401.

(2) Except as provided in subsection (6), starting in the fiscal year beginning July 1, 2035, the state treasurer shall transfer 10% of the amount of volatile revenue by November 1 and 10% of the amount of volatile revenue by May 1 to the Montana growth and opportunity trust established in 17-1-401.

(3) The amount of volatile revenue is an amount equal to:

(a) the sum of capital gains volatile revenue and partnership volatile revenue; and

(b) a portion of interest earnings from the treasury cash account in 17-6-202 as defined pursuant to subsection (4).

(4) The amount of interest earnings from the treasury cash account in 17-6-202 defined as volatile revenue pursuant to subsection (3) is the difference between:

(a) the estimate of interest earnings on the treasury cash account in 17-6-202 as provided in the most recent official revenue estimate provided for in 5-5-227; and

(b) the lowest actual amount of interest earnings on the treasury cash account in 17-6-202 within the most recent 7 years of available data as certified to the legislative fiscal analyst and the budget director by the department of administration and adjusted for inflation pursuant to subsection (7).

(5) For the purposes of this section, the following calculations apply:

(a) "Capital gains increment" is the difference between:

(i) the current calendar year's capital gains estimate as described in the most recent official revenue estimate provided for in 5-5-227; and

(ii) the lowest reported capital gains income from any year within the most recent 7 years of available data, as published in the department of revenue's biennial report provided for in 15-1-205 and adjusted for inflation pursuant to subsection (7).

(b) "Capital gains volatile revenue" is calculated by multiplying the capital gains increment by the rate established in 15-30-2103(2)(a)(ii).

(c) "Partnership increment" is the difference between:

(i) the current calendar year's rents, royalty, and partnership estimate as described in the most recent official revenue estimate provided for in 5-5-227; and

(ii) the lowest reported rents, royalty, and partnership income from any year within the most recent 7 years of available data, as published in the department of revenue's biennial report provided for in 15-1-205 and adjusted for inflation pursuant to subsection (7).

(d) "Partnership volatile revenue" is calculated by multiplying the partnership increment by the rate established in 15-30-2103(1)(a)(ii).

(6) (a) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the unaudited, unassigned ending fund balances for the most recently completed fiscal year of:

(i) the general fund; and

(ii) the budget stabilization reserve fund provided for in 17-7-130.

(b) If the sum of the ending fund balances for the general fund and budget stabilization reserve fund equal an amount less than 20% of all general revenue appropriations in the second year of the biennium, then the amount of the transfers in subsection (1) is reduced by 50% for the fiscal year.

(7) For the purpose of adjusting for inflation, inflation is based on the consumer price index as defined in 20-9-326, and as published by the bureau of labor statistics of the United States department of labor for the most recently completed calendar year.

History: En. Sec. 5, Ch. 775, L. 2025.

17-1-406. Reduction of volatile revenue transfer — report. If the budget director estimates a projected general fund ending fund balance at the end of the biennium that is less than the operating reserve as defined in 17-7-102, the budget director shall inform the legislative finance committee and the legislative fiscal analyst in writing of the financial forecast and recommended actions by September 15 if a reduction is considered for the November 1 transfer or March 15, if a reduction is considered for the May transfer. The legislative finance committee may meet and comment within 30 days of receiving the forecast and recommendations. Then the governor may reduce the transfer of volatile revenue to the Montana growth and opportunity trust established in 17-1-401 by up to 50% of the volatile revenue transfer amount.

History: En. Sec. 34, Ch. 775, L. 2025.

Part 5
Dedication of Revenue to State Special Revenue Fund

17-1-501. Legislative intent. (1) It is the intent of the legislature, by establishing criteria for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

(a) are based on sound principles of revenue dedication as described in 17-1-507;

(b) reflect present circumstances and legislative priorities for state spending;

(c) are terminated when they are no longer necessary or appropriate; and

(d) are subject to the same legislative scrutiny as programs or activities funded from the general fund.

(2) It is the intent of the legislature, by establishing criteria for the review and evaluation of statutory appropriation provisions, to ensure that provisions with statutory appropriations:

(a) reflect present circumstances and legislative priorities for state spending;

(b) are terminated when they are no longer necessary or appropriate; and

(c) are subject to the same legislative scrutiny as other appropriations.

(3) When revenue is dedicated to a local government, it is the intent of the legislature that the dedicated revenue provision be reviewed in the context of the policy and purpose expressed in 15-1-120.

History: En. Sec. 1, Ch. 593, L. 1993; amd. Sec. 14, Ch. 509, L. 1995; amd. Sec. 1, Ch. 8, L. 1999; amd. Sec. 1, Ch. 41, L. 2003.

17-1-502. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Administrative costs" includes:

(a) personal services;

(b) operating expenses, such as travel, supplies, and communication costs; and

(c) capital expenses, such as equipment, building costs, and real property costs.

(2) (a) "Continuing and reliable source of revenue" means a revenue source for which an agency forecasts an annual level of collections based upon historical data and prepares a budget for expenditures commensurate with the level of collections. Collections may not change significantly on an annual basis.

(b) The term does not include revenue:

(i) that an agency will receive only as a result of an occurrence that is not a routine part of agency operations;

(ii) that will vary significantly on an annual basis; or

(iii) that is unable to be included in the agency budget because of the erratic nature of receipt.

(3) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund, as described in 17-2-102, or to a local government.

(4) "General revenue source" means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

(5) "Local government" means a municipality, a county, a consolidated government, or a special district.

(6) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102.

History: En. Sec. 2, Ch. 593, L. 1993; amd. Sec. 15, Ch. 509, L. 1995; amd. Sec. 2, Ch. 41, L. 2003.

Cross-References

Fund structure, 17-2-102.

17-1-503. Transfer of fund balances to general fund. The balance remaining in each special revenue account terminated pursuant to legislative review must be deposited in the general fund.

History: En. Sec. 3, Ch. 593, L. 1993; amd. Sec. 31, Ch. 18, L. 1995; amd. Sec. 16, Ch. 509, L. 1995; amd. Sec. 2, Ch. 8, L. 1999.

17-1-504. Effect of termination. (1) If the legislature has appropriated revenue from sources de-earmarked by the legislature, the appropriation is considered to have been made from the general fund.

(2) All assets, liabilities, and fund balances of accounts terminated by the legislature accrue to the general fund.

History: En. Sec. 4, Ch. 593, L. 1993; amd. Sec. 1, Ch. 252, L. 1995; amd. Sec. 17, Ch. 509, L. 1995.

Cross-References

Disposition of money from certain designated license and other taxes, 17-2-124.

Definition of and revenue for state equalization aid, 20-9-343.

17-1-505. Review of dedicated revenue provisions. (1) The legislature recognizes that dedicated revenue provisions are subject to review by:

(a) the office of budget and program planning in the development and implementation of the executive budget and analysis of legislation;

(b) the legislative fiscal division in analyzing the executive budget;

(c) the legislative services division in drafting legislation;

(d) the legislative auditor in auditing agencies;

(e) the department of administration in performing the functions provided for in 17-2-106; and

(f) the department of revenue in reviewing revenue sources and determining distributions to local governments.

(2) To avoid unnecessary and unjustified use of dedicated revenue provisions, the entities listed in subsection (1) shall, in the course of current duties, consider the principles in 17-1-507 and the criteria listed in this subsection for each new or existing dedicated revenue provision. If an entity referred to in subsection (1) determines that the use of a dedicated revenue provision is not justified, the use or proposed use must be reported to the legislative fiscal analyst. A dedicated revenue provision should not give a program or activity an unfair advantage for funding. The expenditures from a dedicated revenue provision must be based on requirements for meeting a legislatively established outcome. Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue sources must be reviewed to the same extent as programs or activities funded from the general fund. The use of a dedicated revenue provision may be justified if it satisfies one or more of the following:

(a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The use of the dedicated revenue provision provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund.

(c) The dedicated revenue provision provides program funding at a level equivalent to the expenditures established by the legislature.

(d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities in state government.

(e) The dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending.

(f) The dedicated revenue provision results in an appropriate projected ending fund balance.

(g) The dedicated revenue provision fulfills a continuing, legislatively recognized need.

(h) The dedicated revenue provision does not result in accounting or auditing inefficiency.

(3) A local government dedicated revenue provision may be justified if it satisfies any of the following:

(a) The program or activity funded provides direct benefits or services for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The provision provides necessary information or other advantages that could not be obtained if the revenue were allocated to the state general fund.

(c) The provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities of state and local government.

(d) The provision does not impair the ability of the legislature to scrutinize budgets, control expenditures, and establish state spending priorities.

(e) The provision fulfills a legislatively recognized continuing need.

(f) The provision does not result in accounting or auditing inefficiency or unnecessary complexity and instability of local government funding structures.

History: En. Sec. 5, Ch. 593, L. 1993; amd. Sec. 18, Ch. 509, L. 1995; amd. Sec. 3, Ch. 8, L. 1999; amd. Sec. 43, Ch. 51, L. 1999; amd. Sec. 1, Ch. 554, L. 2001; amd. Sec. 3, Ch. 41, L. 2003; amd. Sec. 5, Ch. 120, L. 2013.

17-1-506. Review of legislation. The office of budget and program planning shall, consistent with the review provisions in 17-1-505, review each piece of legislation that proposes to dedicate revenue. The office shall submit its findings concerning the dedication of revenue on the fiscal notes accompanying that legislation.

History: En. Sec. 6, Ch. 593, L. 1993.

17-1-507. Principles of revenue dedication. (1) It is the policy of the legislature that a revenue source not be dedicated for a specific purpose unless one or more of the following conditions are met:

(a) The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment; the entire cost of the activity is paid by the beneficiary; and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

(b) There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

(c) There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

(d) There is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

(2) The total funding for a program is a legislative budget and policy issue for which a dedicated revenue provision may not be justified if:

(a) a general fund appropriation is needed to supplement the dedicated revenue support for the program or activity; or

(b) dedicating a revenue source or portion of a revenue source diverts funds that could be considered a general revenue source.

(3) In the consideration of the general appropriations act for each biennium, the legislature shall determine the appropriateness of dedicating revenue to a program or activity under conditions described in subsection (2). The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue dedication.

History: En. Sec. 19, Ch. 509, L. 1995.

17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in [76-17-103,] 77-1-108, and 87-5-909, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

(a) the money is from a continuing, reliable, and estimable source;

(b) the use of the appropriation or the expenditure occurrence is predictable and reliable;

(c) the authority exists elsewhere;

(d) an alternative appropriation method is available, practical, or effective;

(e) it appropriates state general fund money for purposes other than paying for emergency services;

(f) the money is used for general purposes;

(g) the legislature wishes to review expenditure and appropriation levels each biennium; and

(h) an expenditure cap and sunset date are excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.

(Bracketed language in subsection (2) terminates June 30, 2027—sec. 10, Ch. 374, L. 2017.)

History: En. Sec. 20, Ch. 509, L. 1995; amd. Sec. 19, Ch. 422, L. 1997; amd. Sec. 4, Ch. 8, L. 1999; amd. Sec. 44, Ch. 51, L. 1999; amd. Sec. 2, Ch. 554, L. 2001; amd. Sec. 1, Ch. 247, L. 2007; amd. Sec. 2, Ch. 17, L. 2013; amd. Sec. 2, Ch. 360, L. 2017; amd. Sec. 5, Ch. 374, L. 2017.

Cross-References

Statutory appropriations, Title 17, ch. 7, part 5.

17-1-509 reserved.

17-1-510. Repealed. Sec. 4, Ch. 121, L. 2005.

History: En. Sec. 3, Ch. 37, Sp. L. November 1993.

17-1-511. General fund transfer. Each fiscal year beginning after June 30, 2011, the state treasurer shall transfer the amount reported under section 2(1), Chapter 361, Laws of 2007, from the general fund to the state special revenue account created in 20-26-1501.

History: En. Sec. 2, Ch. 361, L. 2007; amd. Sec. 13, Ch. 19, L. 2011.

17-1-512. Terminated. Sec. 6, Ch. 4, Sp. L. November 2017.

History: En. Sec. 1, Ch. 4, Sp. L. November 2017.

Part 6
Dedication of Revenue to Local Governments (Repealed)

17-1-601. Repealed. Sec. 6, Ch. 41, L. 2003.

History: En. Sec. 1, Ch. 400, L. 2001.

17-1-602. Repealed. Sec. 6, Ch. 41, L. 2003.

History: En. Sec. 2, Ch. 400, L. 2001.

17-1-603. Repealed. Sec. 6, Ch. 41, L. 2003.

History: En. Sec. 3, Ch. 400, L. 2001.

Part 7
Tribal Government Loans

17-1-701. Loans with Indian tribal governments. Loan agreements with Indian tribal governments that are authorized under this title must contain the provisions specified in 90-6-709.

History: En. Sec. 1, Ch. 359, L. 2019.

17-1-702. Incurrence of certain general obligations related to Indian tribal governments. An Indian tribal government may enter into a loan agreement under Title 17, chapters 5 and 6, for any public or governmental purpose as provided in 7-7-4104.

History: En. Sec. 2, Ch. 359, L. 2019.

CHAPTER 2
ACCOUNTING

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17-2-122. Repealed.
17-2-123. Repealed.
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Part 5 — Financial Assistance to Tribal Entities

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17-2-502. Funding for tribal entities — reporting.

Chapter Cross-References

Fund for telecommunications services for the handicapped, 53-19-310.
Funds created for water conservation, 85-1-321.

Part 1
Treasury Funds and Accounts

Part Cross-References

Officers not to pay illegal warrant, 2-2-206.
Disposition of fines, penalties, forfeitures, and fees, 3-10-601.
Disposition of money from certain designated license and other taxes, 17-2-124.
Warrants to Fire Department Relief Association, 19-18-514.
Ex officio treasurer of unemployment compensation account, 39-51-402.
Treasurer for hail insurance, 80-2-232.

17-2-101. Title and purpose. (1) Sections 17-2-101 through 17-2-107 may be cited as the "Treasury Fund Structure Act".

(2) The purpose of these sections is to:

(a) comply with Article VIII, section 12, of the Montana constitution;

(b) simplify the accounting system and treasury fund structure of the state;

(c) make possible the full utilization of modern accounting methods;

(d) provide the legislature with a greater measure of control over public money; and

(e) enable the financial records of the state to accurately reflect the state's revenue, expenditures, expenses, and financial position in accordance with generally accepted accounting principles.

History: En. Sec. 1, Ch. 147, L. 1963; R.C.M. 1947, 79-409; amd. Sec. 1, Ch. 540, L. 1979; amd. Sec. 1, Ch. 28, L. 1981; amd. Sec. 6, Ch. 532, L. 1997.

17-2-102. Fund structure. For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

(1) the governmental fund category, which includes:

(a) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

(b) the special revenue fund type, which accounts for the proceeds of specific revenue sources (other than private purpose trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following funds to serve the purpose indicated:

(i) The state special revenue fund consists of money and other proceeds from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money and other proceeds from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

(ii) The federal special revenue fund consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government.

(c) the capital projects fund type, which accounts for financial resources to be used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds;

(d) the debt service fund type, which accounts for the accumulation of resources for and the payment of general long-term debt principal and interest; and

(e) the permanent fund type, which accounts for financial resources that are legally restricted to the extent that only earnings, but not principal, may be used;

(2) the proprietary fund category, which includes:

(a) the enterprise fund type, which accounts for operations:

(i) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or

(ii) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes; and

(b) the internal service fund type, which accounts for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursed basis;

(3) the fiduciary fund category, which includes trust and custodial fund types used to account for assets held by state government in a trustee capacity or as an agent for individuals, private organizations, other governmental entities, or other funds. These include the:

(a) private purpose trust fund type;

(b) investment trust fund type;

(c) pension and other employee benefit trust fund type; and

(d) custodial fund type.

(4) the higher education funds, which include:

(a) the current fund, which accounts for money deposited in the state treasury that is used to pay current operating costs relating to instruction, research, public service, and allied support operations and programs conducted within the Montana university system. The financial activities of the current fund are subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

(i) The unrestricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations and is free of externally imposed restrictions, except those imposed by the legislature.

(ii) The restricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations but only for purposes imposed by sources external to the board of regents and the legislature.

(iii) The designated subfund segregates that portion of the current fund's financial resources that is associated with general operations but is separately classified in order to accumulate costs that are to be recharged as allocated to other funds or subfunds, identifies financial activities related to special organized activities of educational departments in which the activity is fully supported by supplemental assessments, and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

(iv) The auxiliary subfund segregates that portion of the current fund's financial resources that is devoted to providing essential on-campus services primarily to students, faculty, or staff in which a fee that is directly related to but does not necessarily equal the cost of the service provided is charged to the consumer.

(b) the student loan fund, which accounts for money deposited in the state treasury that may be loaned to students, faculty, or staff for purposes related to education, organized research, or public services by the Montana university system;

(c) the endowment fund, which accounts for money deposited in the state treasury by the Montana university system in which the principal portion of the amount received is nonexpendable but is available for investment. Expendable earnings on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

(d) the annuity and life income fund, which accounts for money deposited in the state treasury by the Montana university system under an agreement by which the money is made available on the condition that the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to the donor or others designated by the donor over a specified period of time;

(e) the plant fund, which accounts for those financial resources allocated to or received by the Montana university system for capital outlay purposes or to retire long-term debts associated with construction or acquisition of fixed assets and the net accumulative results of these activities; and

(f) the custodial fund, which accounts for money deposited in the state treasury for which the Montana university system acts in the capacity of a custodian or fiscal agent for individual students, faculty, staff, and qualified organizations.

History: En. Sec. 2, Ch. 147, L. 1963; amd. Sec. 1, Ch. 321, L. 1973; amd. Sec. 1, Ch. 438, L. 1977; R.C.M. 1947, 79-410; amd. Sec. 2, Ch. 540, L. 1979; amd. Sec. 2, Ch. 28, L. 1981; amd. Sec. 9, Ch. 281, L. 1983; amd. Sec. 1, Ch. 136, L. 1985; amd. Sec. 34, Ch. 658, L. 1987; amd. Sec. 1, Ch. 700, L. 1989; amd. Sec. 2, Ch. 433, L. 1993; amd. Sec. 4, Ch. 308, L. 1995; amd. Sec. 7, Ch. 532, L. 1997; amd. Sec. 1, Ch. 291, L. 1999; amd. Sec. 6, Ch. 34, L. 2001; amd. Sec. 2, Ch. 305, L. 2001; amd. Sec. 3, Ch. 185, L. 2019.

Cross-References

Investment of public funds, Art. VIII, sec. 13, Mont. Const.
Insurance on state buildings — use of proceeds — building replacement, 2-17-105.
Disposition of tax proceeds, Title 15, ch. 1, part 5.
Alcohol revenue to be paid to State Treasurer, 16-1-306.
Fiscal officer for receipt of federal grants, 17-3-106.
Bond issues, Title 17, ch. 5.
Statutory appropriations, Title 17, ch. 7, part 5.
Appropriation and disbursement of money from treasury, 17-8-101.
Special law enforcement assistance account in federal special revenue fund, 44-13-101.
Environmental contingency account, 75-1-1101.
Oil and gas production damage mitigation account, 82-11-161.
Use of energy conservation program account, 90-4-613.
Coal impacts — general provisions, Title 90, ch. 6, part 2.

17-2-103. Previous definitions of funds — identification or segregation of money and funds. (1) It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions of public funds that are inconsistent with the definitions found in this part.

(2) Any laws enacted or any contracts entered into in pursuance of law that require the segregation of money in the state treasury by means of a separate treasury fund must be interpreted as permitting the segregation of the money by means of a subfund or account within one of the funds created by 17-2-102.

(3) Each federal grant or other federal money within any subfund or account of one of the funds created by 17-2-102(1) through (3) must be identifiable as a separate accounting entity, reporting center, responsibility center, or revenue identification code, and an account must be made of each grant or other money by income and expenditure for each federal grant year or fiscal year as may be applicable.

(4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes collected by the state that, pursuant to a statute, are to be allocated or distributed to units of local government, school districts, authorities, or other local governmental entities must be accounted for in a state special revenue fund, established in 17-2-102, as prescribed by the department in accordance with generally accepted accounting principles.

History: Ap.p. Sec. 3, Ch. 147, L. 1963; amd. Sec. 2, Ch. 438, L. 1977; Sec. 79-411, R.C.M. 1947; Ap.p. Sec. 2, Ch. 438, L. 1977; R.C.M. 1947, 79-411; amd. Sec. 3, Ch. 28, L. 1981; amd. Sec. 1, Ch. 515, L. 1985; amd. Sec. 2, Ch. 556, L. 1995; amd. Sec. 8, Ch. 532, L. 1997; amd. Sec. 7, Ch. 34, L. 2001.

17-2-104. Additional accounts authorized. The enumeration of treasury funds in 17-2-102 does not prohibit the state treasurer from establishing and maintaining:

(1) clearance or suspense accounts for the purpose of paying refunds, for the purpose of grouping payments from different funds or accounts prior to disbursement, or for the purpose of conveniently processing receipts before crediting the proper fund;

(2) investment funds authorized under the "Unified Investment Plan".

History: En. Sec. 4, Ch. 147, L. 1963; R.C.M. 1947, 79-412.

Cross-References

Investment of public funds, Art. VIII, sec. 13, Mont. Const.
Investments, Title 17, ch. 6, part 2.

17-2-105. Maintenance of fund and account records and interfund loans. (1) The state treasurer shall record receipts and disbursements for treasury funds and shall maintain fund records in a manner that reflects the total cash and invested balance of each fund. The state treasurer shall also maintain records of individual funds within the debt service, custodial, capital projects, and trust fund types in a manner that reflects the total cash and invested balance of each fund. When necessary to meet federal or other requirements that money be segregated in the treasury, the state treasurer may establish accounts, funds, or subfunds within any fund type listed in 17-2-102.

(2) (a) For the purpose of supplying deficiencies in the general fund, the state treasurer may temporarily borrow from other treasury funds, excluding pension trust funds, providing that the loan is recorded in the state accounting records. Except as provided in subsection (2)(b), the loan does not bear interest. A fund may not be so impaired that all proper demands on the fund cannot be met.

(b) If a loan to the general fund is made from a fund that retains its own interest, the department shall repay the loan with interest at a rate established by the state treasurer based on the estimated interest rate the funds would have earned if the funds had not been borrowed.

History: (1)En. Sec. 6, Ch. 147, L. 1963; amd. Sec. 1, Ch. 268, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; Sec. 79-414, R.C.M. 1947; (2)En. Sec. 7, Ch. 147, L. 1963; amd. Sec. 2, Ch. 268, L. 1971; amd. Sec. 2, Ch. 321, L. 1973; amd. Sec. 98, Ch. 326, L. 1974; Sec. 79-415, R.C.M. 1947; R.C.M. 1947, 79-414(1), 79-415(4); amd. Sec. 10, Ch. 281, L. 1983; amd. Sec. 2, Ch. 47, L. 1995; amd. Sec. 1, Ch. 11, L. 1999; amd. Sec. 4, Ch. 185, L. 2019.

17-2-106. Creation and abolition of new accounts. (1) Moneys deposited in each fund except the general fund shall be segregated by the department of administration by specific accounts based on source, function, or department. When moneys deposited in the state treasury cannot logically be credited to an existing account or when it is impractical or undesirable for an agency of state government to segregate moneys in its own accounts, the department of administration, in its discretion, may create new accounts consistent with the definitions in 17-2-102. However, the department of administration shall create as few new accounts as practicable.

(2) The department of administration shall periodically examine all accounts and shall abolish or consolidate inactive or unnecessary accounts.

(3) When moneys have been appropriated from several sources for the operation of a state agency, the department of administration may establish an account to receive, hold, and disburse moneys appropriated for the operation of the agency and regulate the transfer of moneys to the account in accordance with the laws governing the expenditure of state moneys.

History: (1), (2)En. Sec. 5, Ch. 147, L. 1963; amd. Sec. 27, Ch. 326, L. 1974; Sec. 79-413, R.C.M. 1947; (3)En. Sec. 6, Ch. 147, L. 1963; amd. Sec. 1, Ch. 268, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; Sec. 79-414, R.C.M. 1947; R.C.M. 1947, 79-413, 79-414(4).

17-2-107. Accurate accounting records and interentity loans. (1) The department shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting entity. The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

(2) (a) Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

(b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands on the fund or subfund cannot be met even if the loan is extended.

(ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

(c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

(3) Under unusual circumstances, the director of the department or the board of regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b) through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

(5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education shall submit to the legislative fiscal analyst by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans. The report must be provided in an electronic format. The department or the commissioner of higher education shall provide a copy of the report to the legislature in accordance with 5-11-210.

(6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative fiscal analyst by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency. The report must be provided in an electronic format. The commissioner of higher education shall provide a copy of the report to the legislature in accordance with 5-11-210.

(7) (a) (i) Except as provided in subsection (7)(a)(ii) of this section, an accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative cash balance at fiscal yearend. Except as provided in subsection (9) of this section, the department may allow a fund type within each agency to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(ii) An accounting entity in a federal special revenue fund described in 17-2-102(1)(b)(ii) may have a negative cash balance at fiscal yearend.

(b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance exists for more than 7 working days, a transaction may not be processed through the statewide accounting, budgeting, and human resource system for that fund or subfund.

(8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans to accounting entities in the state special revenue funds with long-term repayment whenever necessary because of the timing of the receipt of agreed-upon reimbursements from private or other governmental entity sources for disbursements made. If possible, the loans must be made from funds other than the general fund. The department may approve the loans if the requesting agency can demonstrate that the total loan balance does not exceed total receivables from private or other governmental entity sources and that receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be determined by the department or by specific legislative authorization.

(9) Federal special revenue funds described in 17-2-102(1)(b)(ii) may not have a negative cash balance by fund type for more than 7 working days unless the requesting agency certifies to the department that it has and will continue to bill the federal government for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable

under federal regulations applicable to the program. The requesting agency shall recertify its timely billing status to the department for any month during which cash is negative for more than 7 working days. If at any time the requesting agency fails to recertify the timely billing, a transaction may not be processed through the statewide accounting, budgeting, and human resource system for that fund or subfund.

(10) A loan may not be authorized under this section to any fund or accounting entity that is owed third-party funds unless the requesting agency certifies to the department that it has billed and will continue to bill the third party for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable under the third party's regulations applicable to the program. The requesting agency shall recertify its timely billing status to the department at least monthly during the term of the loan. If at any time the requesting agency fails to recertify the timely billing, a transaction may not be processed through the statewide accounting, budgeting, and human resource system for that fund or subfund.

History: **En. Sec. 6, Ch. 147, L. 1963; amd. Sec. 1, Ch. 268, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-414(2), (3); amd. Sec. 1, Ch. 626, L. 1979; amd. Sec. 4, Ch. 28, L. 1981; amd. Sec. 1, Ch. 517, L. 1983; amd. Sec. 2, Ch. 136, L. 1985; amd. Sec. 1, Ch. 354, L. 1985; amd. Sec. 1, Ch. 1, Sp. L. June 1986; amd. Sec. 1, Ch. 170, L. 1987; amd. Sec. 2, Ch. 341, L. 1987; amd. Sec. 34, Ch. 658, L. 1987; amd. Sec. 1, Ch. 151, L. 1989; amd. Sec. 1, Ch. 622, L. 1989; amd. Sec. 1, Ch. 628, L. 1991; amd. Sec. 5, Ch. 308, L. 1995; amd. Sec. 93, Ch. 42, L. 1997; amd. Sec. 1, Ch. 547, L. 1997; amd. Sec. 2, Ch. 11, L. 1999; amd. Sec. 2, Ch. 291, L. 1999; amd. Sec. 8, Ch. 34, L. 2001; amd. Sec. 1, Ch. 8, Sp. L. August 2002; amd. Sec. 1, Ch. 465, L. 2009; amd. Sec. 6, Ch. 120, L. 2013; amd. Sec. 14, Ch. 3, L. 2019; amd. Sec. 38, Ch. 261, L. 2021; amd. Sec. 1, Ch. 26, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 26, L. 2025. Amendment effective March 27, 2025.

17-2-108. Expenditure of nongeneral fund money first. (1) Except for the exemptions applicable to the Montana historical society in 22-3-114(5), the Montana state library in 22-1-226(5), the Montana school for the deaf and blind in 20-8-107(5), and the department of public health and human services in 53-1-612, an office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.

(2) Except as provided in 53-1-612, the approving authority, as defined in 17-7-102, shall authorize the decrease of the general fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund appropriation of an agency by the amount of money received from nonfederal sources in excess of the appropriation unless the decrease is contrary to state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If the general fund appropriation of an agency is decreased pursuant to this section, the appropriation for the fund in which the money is received is increased in the amount of the general fund decrease.

(3) If directed by an appropriation act, the approving authority may decrease a state special revenue, proprietary, or other fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation unless the decrease is contrary to state or federal law or federal rule. The appropriation for the fund in which the money is received is decreased by the amount of the federal special revenue increase allowed by law, rule, or contract and approved for the purpose.

History: **En. Sec. 4, Ch. 194, L. 1951; amd. Sec. 1, Ch. 101, L. 1953; amd. Sec. 8, Ch. 158, L. 1959; amd. Sec. 3, Ch. 267, L. 1971; amd. Sec. 45, Ch. 326, L. 1974; R.C.M. 1947, 82-109(2); amd. Sec. 1, Ch. 352, L. 1989; amd. Sec. 3, Ch. 787, L. 1991; amd. Sec. 4, Ch. 4, L. 1993; amd. Sec. 3, Ch. 339, L. 1995; amd. Sec. 1, Ch. 332, L. 2003; amd. Sec. 4, Ch. 576, L. 2003; amd. Sec. 1, Ch. 151, L. 2005.**

17-2-109. Department access to records. (1) All officers, employees, and other persons connected with the fiscal affairs of any state office, agency, or institution must afford all reasonable facilities for the examination of accounts and investigations provided for and must make reports, returns, and exhibits relating to such fiscal matters to the department in a form that the department shall prescribe.

(2) If an officer or employee of the state or any agency refuses or neglects to comply with subsection (1) of this section, the salary of that officer or employee shall, on request of the department to the proper official, be withheld until that officer or employee complies with subsection (1) and the department certifies approval to the disbursing officer.

History: En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971; amd. Sec. 50, Ch. 326, L. 1974; R.C.M. 1947, 82-110(part).

Cross-References

Public records — Secretary of State's powers and duties, 2-6-1101.

17-2-110. Fiscal year and financial reports. (1) Except for the state fund provided for in Title 39, chapter 71, part 23, the fiscal year for state purposes commences on July 1 of each year and ends on June 30 of each year. The state fund's fiscal year starts on January 1 of each year and ends on December 31 of that same year.

(2) At the end of each fiscal year, the fiscal records of each state office, department, bureau, commission, institution, university unit, and agency, collectively referred to as "state agency", must be closed. Each state agency shall prepare the financial records and reconciliations for the fiscal year as the department of administration may prescribe. The financial reports of the uniform accounting and reporting system prescribed in 17-1-102(2) are to be completed and distributed not more than 31 days following the end of each fiscal year. The department of administration may extend this time limit if a state agency can show necessity for the extension.

(3) The reports are to be distributed to the department of administration and the legislative auditor and any other state agency that the department of administration may prescribe. It is the intent of this provision that these reports accurately and comprehensively present the financial activities of the reporting state agency in accordance with generally accepted accounting principles so that the reports can be effectively used by the executive and legislative branches of state government.

(4) Upon consolidation of the reports, the annual financial report by the department of administration must be available for other individuals and organizations interested in the financial affairs of the state of Montana.

History: En. Sec. 3821, Pol. C. 1895; re-en. Sec. 2594, Rev. C. 1907; amd. Sec. 1, Ch. 73, L. 1921; re-en. Sec. 518, R.C.M. 1921; re-en. Sec. 518, R.C.M., 1935; amd. Sec. 1, Ch. 121, L. 1953; amd. Sec. 1, Ch. 84, L. 1955; amd. Sec. 2, Ch. 127, L. 1961; amd. Sec. 1, Ch. 175, L. 1969; R.C.M. 1947, 59-701(part); amd. Sec. 2, Ch. 267, L. 1985; amd. Sec. 6, Ch. 308, L. 1995; amd. Sec. 3, Ch. 48, L. 1997; amd. Sec. 4, Ch. 320, L. 2015.

Cross-References

Statutes — effective date, 1-2-201.
Legislative Auditor's powers and duties, 5-13-304.
Audit information from state agencies, 5-13-309.

17-2-111. Repealed. Sec. 21, Ch. 120, L. 2013.

History: En. Sec. 1, Ch. 390, L. 1987; amd. Sec. 2, Ch. 700, L. 1989; amd. Sec. 21, Ch. 509, L. 1995; amd. Sec. 5, Ch. 8, L. 1999.

17-2-112 through 17-2-120 reserved.

17-2-121. Repealed. Sec. 52, Ch. 380, L. 2003.

History: En. Sec. 2, Ch. 391, L. 1985; amd. Sec. 2, Ch. 351, L. 1989; amd. Sec. 9, Ch. 532, L. 1997; amd. Sec. 7, Ch. 227, L. 2001.

17-2-122. Repealed. Sec. 9, Ch. 351, L. 1989.

History: En. Sec. 3, Ch. 391, L. 1985.

17-2-123. Repealed. Sec. 9, Ch. 351, L. 1989.

History: En. Sec. 4, Ch. 391, L. 1985.

17-2-124. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the appropriate fund in accordance with the provisions of subsection (3) all money received from the collection of taxes and fees.

(2) The department of revenue shall deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.

(3) The distribution of tax and fee revenue must be made according to the provisions of the law governing allocation of the tax or fee that were in effect for the period in which the tax or fee revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes or fees must be attributed to the funds in which the taxes or fees are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

History: En. Sec. 1, Ch. 475, L. 2007; amd. Sec. 13, Ch. 489, L. 2009.

17-2-125 through 17-2-130 reserved.

17-2-131. Genetic engineering technology research and development account created. There is created in the current restricted subfund a restricted account for funds appropriated to Montana state university-Bozeman for applied genetic engineering technology research and development. Money contributed by the Montana agriculture industry must be deposited in the account and is restricted to genetic engineering technology research and development only.

History: En. Sec. 1, Ch. 686, L. 1989; amd. sec. 36, Ch. 308, L. 1995; amd. Sec. 23, Ch. 130, L. 2005.

Cross-References

Miscellaneous finance — University System, Title 20, ch. 25, part 4.

Part 2
Special Accounts

17-2-201. Contingent revolving accounts — when established. (1) The department of administration may authorize the establishment and maintenance at the state agencies or in the departments, boards, or commissions of contingent revolving accounts, transferring in trust to the business offices of the institutions sums of money as may appear necessary to be used by the institutions for the payment of demands requiring immediate cash payment. Demands include the payment of minor invoices, invoices for which the discount period is too short to take advantage of the discount if payment is made by warrant, freight and express charges, travel advances, postage, publications requiring remittance to accompany the order, and the establishment of cash change funds, all under specific regulations to be established by the department of administration.

(2) Each state agency granted a contingent revolving account shall report to the department of administration upon request all transactions involving the contingent revolving accounts, with proper vouchers for every payment. The department of administration may cancel the authorizations and recall the funds as it determines appropriate.

History: En. Sec. 4, Ch. 112, L. 1921; re-en. Sec. 195, R.C.M. 1921; re-en. Sec. 195, R.C.M. 1935; amd. Sec. 9, Ch. 80, L. 1961; amd. Sec. 1, Ch. 148, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-602; amd. Sec. 4, Ch. 48, L. 1997.

17-2-202. Retention of agency money. The department of administration may, in its discretion, permit any state agency to retain in its possession, under conditions the department of administration may prescribe, money that would otherwise be deposited in the custodial fund as defined in 17-2-102. The department of administration may cancel this permission and require the deposit of the money with the state treasurer. However, the state treasurer, with the consent of the board of investments, shall designate depositories for the money and securities and require indemnifying bonds or pledged securities sufficient to adequately and properly secure the amounts deposited in the depositories.

History: En. Sec. 5, Ch. 112, L. 1921; re-en. Sec. 196, R.C.M. 1921; amd. Sec. 2, Ch. 157, L. 1931; re-en. Sec. 196, R.C.M. 1935; amd. Sec. 12, Ch. 147, L. 1963; amd. Sec. 3, Ch. 268, L. 1971; amd. Sec. 28, Ch. 326, L. 1974; amd. Sec. 7, Ch. 61, L. 1977; R.C.M. 1947, 79-603; amd. Sec. 5, Ch. 185, L. 2019.

Cross-References

State Treasurer as treasurer of state agencies — deposits of money, 17-6-105.

17-2-203. Repealed. Sec. 7, Ch. 540, L. 1979.

History: En. Sec. 6, Ch. 112, L. 1921; re-en. Sec. 197, R.C.M. 1921; re-en. Sec. 197, R.C.M. 1935; R.C.M. 1947, 79-604.

Part 3
State and Local Charges for Services — Limit on Fund Balance

17-2-301. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Approving authority" means:

(a) in the case of a state agency, the approving authority as defined in 17-7-102;

(b) in the case of a local government entity, the local government entity's governing body.

(2) "Capital project" means the planned and necessary replacement or upgrade of building facilities, infrastructure, or equipment that is budgeted for by a state agency or a local government entity.

(3) (a) "Charge for services" or "charge" means a fee, charge, levy, or other assessment that is established by state agency rule or local government entity ordinance and that is:

(i) charged by the state agency or local government entity to a user of a service provided by the state agency or local government entity;

(ii) charged by the state agency or local government entity in exchange for a license, permit, or other type of grant of authority by the state agency or local government entity; or

(iii) collected exclusively to provide promotional or marketing services to the person on whom the charge is levied and that is not assessed or collected pursuant to Title 15.

(b) For the purposes of 17-2-302(1) or (3)(a) or 17-2-304, the term includes a fee, charge, levy, or other assessment established as provided in subsection (3)(a) and a fee, charge, levy, or other assessment established by statute.

(4) "Governing body" means the:

(a) board of county commissioners in the case of a county;

(b) municipal commission in the case of a municipality;

(c) commission in the case of a consolidated government; or

(d) town meeting legislative body in the case of a town.

(5) "Legislative audit division" means the legislative audit division established by 5-13-301.

(6) "Local charge for services fund" or "local fund" means an accounting fund maintained by a local government entity for which the exclusive source of revenue is one or more charges for services or interest or other income on the fund.

(7) "Local government entity" means a county, city, consolidated government, or town.

(8) "Operating plan" means the financial plan used by a state agency or local government entity showing in detail the purposes for which the state agency's or local government entity's operating revenue will be spent in the current fiscal year of the state agency or local government entity and the fund from which the expenditures will be made.

(9) "State agency" means an agency as defined in 17-7-102.

(10) "State charge for services fund" or "state fund" means an account within the special revenue fund established by 17-2-102 for which the exclusive source of revenue is one or more charges for services or interest or other income on the fund.

History: En. Sec. 1, Ch. 270, L. 1997.

17-2-302. Limitation on balance in state or local charge for services fund — exceptions — audits. (1) Except as provided in this section, a state agency that deposits money into a state charge for services fund or a local government entity that deposits money into a local charge for services fund may not maintain a cash balance in the fund greater than twice the annual appropriation for that year or greater than the biennial appropriation from the account for the biennium, which includes that year from the state fund or local fund as shown in the state agency's or local government entity's initial operating plan.

(2) A state agency may maintain more money in a state fund or a local government entity may maintain more money in a local fund than is allowed by subsection (1) if the approving authority for the state agency certifies to the legislative finance committee, established by 5-12-201, or the manager of the service or function of the local government entity using money in a local fund certifies to the governing body of that entity:

(a) the date on which the state fund or local fund balance exceeded the limitation provided in subsection (1);

(b) the amount of money by which the state fund or local fund balance exceeded the limitation provided in subsection (1);

(c) the amount of money usually needed in the state fund or local fund for the operation of the service or function of the state agency or local government entity for 1 year, along with supporting facts;

(d) whether the amount of money within the state fund or local fund that is in excess of the limitation provided in subsection (1) is necessary for the operation of the service or function of the state agency or local government entity because of:

(i) an emergency;

(ii) a special or unusual circumstance; or

(iii) a fluctuation in the service, function, or charges for services of the agency or entity; and

(e) the facts and circumstances demonstrating the emergency, unusual circumstance, or fluctuation claimed in subsection (2)(d).

(3) The legislative audit division shall include in financial audits performed by or at the direction of the legislative audit division and an independent auditor shall include in an audit performed by the independent auditor pursuant to Title 2, chapter 7, part 5, a determination of whether money is or has been retained in a state charge for services fund or in a local charge for services fund contrary to the requirements of:

(a) this section; or

(b) 17-2-303.

(4) Except as otherwise provided in 17-2-301(3)(b), this section does not apply to:

(a) a charge for services made by one state agency to another state agency or by one local government entity to another local government entity;

(b) a state charge for services fund or a local charge for services fund used only for replacement of buildings or to pay the costs of other future capital projects;

(c) a fee, charge, tax, levy, or other assessment the amount of which is established by statute;

(d) fees, charges, and payments established pursuant to the revolving fund programs created by and administered pursuant to Title 75, chapter 5, part 11, and Title 75, chapter 6, part 2; or

(e) charges for services deposited in accordance with law into:

(i) a debt service or bond reserve fund;

(ii) the state general fund;

(iii) a county general fund; or

(iv) a city, town, or consolidated government general fund.

History: En. Sec. 2, Ch. 270, L. 1997.

17-2-303. Reduction of charge required. A state agency that maintains a cash balance in a state charge for services fund or a local government entity that maintains a cash balance in a local charge for services fund contrary to the limitation provided in 17-2-302(1) for more than 60 days shall, within 120 days after the end of the 60-day period, reduce the charge for services or, in the case of a state fund or local fund into which two or more charges for service are deposited, reduce one or more charges for services specified by the state agency or local government entity until the cash balance in the state fund or local fund complies with the limitation in 17-2-302(1).

History: En. Sec. 3, Ch. 270, L. 1997.

17-2-304. Reports required. (1) (a) The approving authority for a state agency shall annually report in writing to the legislative fiscal analyst by September 15:

(i) each state agency that had a cash balance in a state charge for services fund contrary to the limitation provided in 17-2-302(1) during the previous 12 months;

(ii) the facts certified for each state agency by the approving authority pursuant to 17-2-302(2);

(iii) each state agency that has complied with the requirements of 17-2-303 and the circumstances of the agency's compliance;

(iv) each state agency that has not complied with 17-2-303 and the circumstances of the agency's noncompliance; and

(v) all expenditures made by the state agency in the preceding 12 months that are related to the production and distribution of public service announcements.

(b) The report must be provided in an electronic format.

(2) The director of the department of administration shall report to the legislature at the time and in the manner required by 5-11-210 a list of each local government entity that had a balance in a local charge for services fund contrary to the limitation provided by 17-2-302(1) or that failed to reduce the charge as provided in 17-2-303, or both, during the previous 12 months.

History: En. Sec. 4, Ch. 270, L. 1997; amd. Sec. 42, Ch. 483, L. 2001; amd. Sec. 2, Ch. 332, L. 2003; amd. Sec. 3, Ch. 386, L. 2011; amd. Sec. 7, Ch. 120, L. 2013.

Part 4
Full Cost Accounting Act (Terminated)

17-2-401. Terminated. Sec. 10, Ch. 489, L. 2001.
History: En. Sec. 1, Ch. 489, L. 2001.

17-2-402. Terminated. Sec. 10, Ch. 489, L. 2001.
History: En. Sec. 2, Ch. 489, L. 2001.

17-2-403. Terminated. Sec. 10, Ch. 489, L. 2001.
History: En. Sec. 3, Ch. 489, L. 2001.

17-2-404. Terminated. Sec. 10, Ch. 489, L. 2001.
History: En. Sec. 4, Ch. 489, L. 2001.

17-2-405. Terminated. Sec. 10, Ch. 489, L. 2001.
History: En. Sec. 5, Ch. 489, L. 2001.

Part 5
Financial Assistance to Tribal Entities

Part Compiler's Comments
Effective Date: Section 5, Ch. 569, L. 2025, provided that this part is effective July 1, 2025.

17-2-501. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) "Designated state agency" means:
(i) the department of administration;
(ii) the department of agriculture;
(iii) the Montana arts council;
(iv) the office of the state auditor;
(v) the board of regents;
(vi) the department of commerce;
(vii) the department of corrections;
(viii) the department of environmental quality;
(ix) the department of fish, wildlife, and parks;
(x) the governor's office;
(xi) the department of labor and industry;
(xii) the department of livestock;
(xiii) the department of military affairs;
(xiv) the Montana board of crime control;
(xv) the department of natural resources and conservation;
(xvi) the commissioner of political practices;
(xvii) the office of state public defender;
(xviii) the board of public education;
(xix) the department of public health and human services;
(xx) the office of public instruction;
(xxi) the public service commission;
(xxii) the department of revenue;
(xxiii) the school for the deaf and blind;
(xxiv) the office of the secretary of state;

(xxv) the state fund;
(xxvi) the state library;
(xxvii) the department of transportation;
(xxviii) the office of the commissioner of higher education; or
(xxix) the department of justice.

(b) The term does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(2) (a) "Financial assistance" means assistance provided directly or indirectly to a tribal entity either as state funds or as federal funds provided through a state agency to carry out a program. Financial assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, and electronic benefit transfer cards. The term includes awards received directly or indirectly by a tribal entity as state funds or as federal funds passed through a state agency directly or indirectly from a subrecipient. The granting agency is responsible for identifying the source of funds awarded to tribal entity recipients.

(b) The term does not include federal, state, or local government cash assistance provided directly to individuals.

(3) "Subrecipient" means a third party who receives state funds or federal funds through a state agency that the third party ultimately provides to a tribal entity in the form of financial assistance.

(4) "Tribal entity" means a tribal nation, tribal council, or tribal government located in the state.

History: En. Sec. 1, Ch. 569, L. 2025.

17-2-502. Funding for tribal entities — reporting. (1) Following the close of each fiscal year, a designated state agency that has distributed funds to a tribal entity or has received or retained funds related to a program that directly or indirectly provides financial assistance to a tribal entity shall prepare a report that identifies all financial assistance distributed by the designated state agency directly or indirectly to a tribal entity in the previous fiscal year.

(2) Unless otherwise specifically provided in the report issued by the director of the office of Indian affairs, the report under this section must provide the following information:

(a) the amount distributed directly to a tribal entity;

(b) the amount distributed to a subrecipient that was ultimately distributed to a tribal entity;

(c) the date the amount was distributed to a tribal entity or subrecipient;

(d) the tribal entity receiving the financial assistance;

(e) the federal assistance listings number, if applicable;

(f) the purpose of the distribution;

(g) the amount of any overhead rate and a general description of the uses of overhead funding for distributing the financial assistance;

(h) for funds distributed pursuant to a program administered by a designated state agency, the program through which the funds were distributed; and

(i) for federal funds, any other amount retained by the state agency and for what purpose.

(3) A designated state agency that prepares a report in accordance with subsection (1) shall submit the report to the office of budget and program planning on or before November 1 of each year.

(4) The office of budget and program planning shall prepare an annual report that compiles and summarizes the reports that the office of budget and program planning receives in accordance with subsection (3).

(5) On or before December 1 of each year, the office of budget and program planning shall submit the report required by subsection (4) to:

(a) the state-tribal relations committee, in accordance with 5-11-210;

(b) the office of state director of Indian affairs provided for in 2-15-217;

(c) each federally recognized tribal government in the state; and

(d) the legislative finance committee established in 5-12-201.

(6) The report required by subsection (4) must be posted on the website of the office of state director of Indian affairs.

History: En. Sec. 2, Ch. 569, L. 2025.

CHAPTER 3
FEDERAL REVENUES AND ENDOWMENTS

Part 1 — Federal Assistance Management

17-3-101. Purpose.
17-3-102. Definitions.
17-3-103. Repealed.
17-3-104. Repealed.
17-3-105. Governor authorized to accept funds — designation of state agency.
17-3-106. Fiscal officer for receipt of federal grants.
17-3-107. Federal funds for welfare of Indians.
17-3-108. Approved budget amendment.
17-3-109. Repealed.
17-3-110. Renumbered 17-1-105.
17-3-111. Renumbered 17-1-106.
17-3-112. Repealed.

Part 2 — Distribution of Federal Return on State Resources

17-3-201. Repealed.
17-3-202. Special districts — authority to receive federal funds.
17-3-203 through 17-3-210 reserved.
17-3-211. Forest reserve money and other federal funds.
17-3-212. Apportionment of forest reserve funds and other federal funds among counties.
17-3-213. Allocation of forest reserve funds and other federal funds — options provided in federal law.
17-3-214. Repealed.
17-3-215 through 17-3-220 reserved.
17-3-221. State treasurer to be custodian of money received under Taylor Grazing Act.
17-3-222. Apportionment of money to counties.
17-3-223 through 17-3-230 reserved.
17-3-231. Flood Control Act — distribution of revenues to counties.
17-3-232. Deposit and expenditure of funds by counties.
17-3-233 through 17-3-239 reserved.
17-3-240. Federal mineral leasing funds.
17-3-241. Mineral impact account.

Part 3 — Federal Sums in Lieu of Taxes

17-3-301. Definitions.
17-3-302. Requests for sums in lieu of taxes and agreements to perform services.
17-3-303. Basis for amount of payment.
17-3-304. Duplicate of agreement — filing — receipt for tax.
17-3-305. Disposal of moneys.

Parts 4 through 9 reserved

Part 10 — Endowments

17-3-1001. State institutions which may take by gift, bequest, or grant — restriction.
17-3-1002. Persons who may make gifts to state institutions.
17-3-1003. Support of state institutions.
17-3-1004. Disbursement of funds.

Chapter Cross-References

Receipt of federal revenue for:
Local public works programs, 7-13-142, 7-13-143.
School food service, 20-10-201.
State Library Commission, 22-1-103.
Law Enforcement Academy, 44-10-202.
Federal funds for tuberculosis control, 50-17-103.
Aid to airports, 67-10-405.
Municipal and regional airport authorities, 67-11-305.
Flood control and water conservancy districts, 76-5-1110.
Open-space land, 76-6-109.

Part 1
Federal Assistance Management

17-3-101. Purpose. The purpose of this part is to provide more complete information regarding federal assistance programs to the governor, state agencies, and the legislature and coordinate federally assisted programs with other state programs.

History: **En. 79-2702 by Sec. 2, Ch. 259, L. 1975; R.C.M. 1947, 79-2702.**

17-3-102. Definitions. As used in this part, the following definitions apply:

(1) "Application" means the form specified by a federal agency.

(2) "Federal assistance programs" means any financial assistance made to a state agency by an agency of the United States government, whether a grant, loan, gift, contract, or in any other form.

(3) "Grantee agency" means any agency of state government receiving federal funds.

(4) "Indirect costs" means costs that benefit more than one agency or program and that are not readily assignable to the agency or program specifically benefiting.

(5) "Service agency" means state agencies that provide goods, facilities, and services to a grantee agency.

(6) "State agency" means any agency of state government eligible to apply for and receive federal funds.

History: (1), (2), (5)En. 79-2703 by Sec. 3, Ch. 259, L. 1975; Sec. 79-2703, R.C.M. 1947; (3), (4), (6)En. 79-1020 by Sec. 1, Ch. 223, L. 1975; Sec. 79-1020, R.C.M. 1947; R.C.M. 1947, 79-1020, 79-2703; amd. Sec. 5, Ch. 48, L. 1997.

17-3-103. Repealed. Sec. 1, Ch. 176, L. 1979.

History: En. 79-2704 by Sec. 4, Ch. 259, L. 1975; R.C.M. 1947, 79-2704.

17-3-104. Repealed. Sec. 2, Ch. 109, L. 1993.

History: En. 79-2706 by Sec. 6, Ch. 259, L. 1975; R.C.M. 1947, 79-2706.

17-3-105. Governor authorized to accept funds — designation of state agency. (1) The governor is authorized to accept on behalf of the state any federal assistance funds made available by act of congress for programs that are consistent with the needs and goals of the state and its citizens and that are not prohibited by the provisions of this part or other applicable law.

(2) The governor shall designate, unless otherwise specified by state or federal law or regulation, the state agency to administer the accepted federal assistance program.

History: En. 79-2705 by Sec. 5, Ch. 259, L. 1975; R.C.M. 1947, 79-2705.

Cross-References

Federal aid, 2-15-137.

17-3-106. Fiscal officer for receipt of federal grants. (1) The state treasurer is designated as the fiscal officer of the state to receive from the United States government or any of its agencies all funds that may be made available as a grant to the state of Montana under any act of congress, or otherwise, for any purpose or use. The state treasurer shall, upon receipt of the funds, deposit the funds in the proper fund in the state treasury.

(2) A state agency may return from the state treasury, through the state treasurer, any federal funds and the interest earned on the funds that may not be retained by the state according to federal law or the terms of the federal grant that made the funds available. The funds are statutorily appropriated, as provided in 17-7-502, to the state treasurer for the purpose of returning the funds under the provisions of this subsection.

History: En. Sec. 1, Ch. 119, L. 1949; R.C.M. 1947, 79-210; amd. Sec. 1, Ch. 107, L. 1993; amd. Sec. 6, Ch. 48, L. 1997.

Cross-References

Fund structure, 17-2-102.

17-3-107. Federal funds for welfare of Indians. If and whenever the congress of the United States shall authorize the administration of federal appropriations for the welfare of the Indians of Montana through the agency of public departments and bureaus of this state, full power and authority is conferred upon such state agencies to administer the expenditure of such federal appropriations for the welfare of such Indians within the scope of the powers conferred upon such departments by law.

History: En. Sec. 1, Ch. 65, L. 1927; re-en. Sec. 5668.14, R.C.M. 1935; R.C.M. 1947, 79-1601.

17-3-108. Approved budget amendment. Financing for new or expanded programs from federal assistance program sources may be made available only by approved budget amendment.

History: En. 79-2707 by Sec. 7, Ch. 259, L. 1975; amd. Sec. 9, Ch. 61, L. 1977; R.C.M. 1947, 79-2707; amd. Sec. 1, Ch. 109, L. 1993.

Cross-References

Budget amendments, Title 17, ch. 7, part 4.

17-3-109. Repealed. Sec. 19, Ch. 347, L. 1997.
History: En. 79-2708 by Sec. 8, Ch. 259, L. 1975; R.C.M. 1947, 79-2708.

17-3-110. Renumbered 17-1-105. Sec. 5, Ch. 121, L. 2005.

17-3-111. Renumbered 17-1-106. Sec. 5, Ch. 121, L. 2005.

17-3-112. Repealed. Secs. 10(2), 11(2), Ch. 17, L. 2013.
History: En. Sec. 53, Ch. 489, L. 2009.

Part 2
Distribution of Federal Return on State Resources

Part Cross-References
School food service, 20-10-201.
Aid to highways, 60-3-101.
Flood control and water conservancy districts, 76-5-1110.

17-3-201. Repealed. Sec. 6, Ch. 20, Sp. L. June 1986.
History: En. Sec. 1, Ch. 246, L. 1973; amd. Sec. 1, Ch. 357, L. 1977; R.C.M. 1947, 79-211; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 4, Ch. 541, L. 1983.

17-3-202. Special districts — authority to receive federal funds. Federal funds designated to a specific county under this part may be paid directly to a special district within the county pursuant to 7-11-1024.
History: En. Sec. 1, Ch. 133, L. 2021.

17-3-203 through 17-3-210 reserved.

17-3-211. Forest reserve money and other federal funds. (1) The state treasurer, for the purpose of carrying out the provisions of 16 U.S.C. 500, Public Law 106-393, Public Law 110-343, and all acts subsequent to them, shall divide and distribute all forest reserve, Public Law 106-393, and Public Law 110-343 funds received by the state to and among the several counties entitled to the funds and pay the amounts to the several county treasurers of the counties within 5 business days after receiving full payment, as directed by the department.

(2) If the forest reserve money, the Public Law 106-393 money, and Public Law 110-343 money are not distributed within 5 business days of receipt by the state, all interest earnings must be credited to the appropriate counties.
History: En. Sec. 1, Ch. 26, L. 1915; re-en. Sec. 175, R.C.M. 1921; re-en. Sec. 175, R.C.M. 1935; R.C.M. 1947, 79-203; amd. Sec. 1, Ch. 712, L. 1985; amd. Sec. 1, Ch. 334, L. 2001; amd. Sec. 1, Ch. 74, L. 2007; amd. Sec. 1, Ch. 105, L. 2009; amd. Sec. 1, Ch. 283, L. 2017.

17-3-212. Apportionment of forest reserve funds and other federal funds among counties. (1) The forest reserve funds, all Public Law 106-393 funds, all Public Law 110-343 funds, funds received pursuant to a similar subsequent act, and earned interest are statutorily appropriated, as provided in 17-7-502, from the federal special revenue fund to the department. The department shall apportion all forest reserve funds, all Public Law 106-393 funds, all Public Law 110-343 funds, and earned interest, as provided in 17-3-211, for allocation among the counties in which the forest reserve is situated based upon federal law and this section.

(2) The state treasurer shall pay the apportioned amounts plus interest, as provided in 17-3-211, to the respective counties.
History: En. Sec. 2, Ch. 26, L. 1915; re-en. Sec. 176, R.C.M. 1921; re-en. Sec. 176, R.C.M. 1935; R.C.M. 1947, 79-204; amd. Sec. 16, Ch. 703, L. 1985; amd. Sec. 2, Ch. 712, L. 1985; amd. Sec. 11, Ch. 389, L. 1999; amd. Sec. 2, Ch. 334, L. 2001; amd. Sec. 2, Ch. 74, L. 2007; amd. Sec. 2, Ch. 105, L. 2009; amd. Sec. 2, Ch. 283, L. 2017.

17-3-213. Allocation of forest reserve funds and other federal funds — options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (6), as provided in Public Law 106-393, Public Law 110-343, and any similar subsequent act to determine how the forest reserve funds, Public Law 106-393, funds, Public Law 110-343 funds, and funds received pursuant to a similar subsequent act apportioned to each county must be distributed by the county treasurer pursuant to this section.

(2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived from national forest system lands, as provided in 16 U.S.C. 500 or any similar subsequent act, all funds received must be distributed as provided in subsection (5).

(3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under Public Law 106-393 or any similar subsequent act, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated by the county for distribution as provided in subsection (5).

(b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393 or any similar subsequent act.

(4) If a county's full payment under Public Law 106-393 or any similar subsequent act is less than $100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).

(5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be distributed as follows:

(a) to the general road fund, 66⅔% of the amount designated;

(b) to the following countywide school levies, 33⅓% of the amount designated:

(i) county equalization for elementary schools provided for in 20-9-331;

(ii) county equalization for high schools provided for in 20-9-333;

(iii) the county transportation fund provided for in 20-10-146; and

(iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.

(6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (5)(b).

(7) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66⅔% distributed under subsection (5)(a) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county.

(8) Except as provided in subsection (9), if a county elects to receive the county's full payment under Public Law 110-343 or any similar subsequent act, not less than 80% but not more than 85% of the funds must be expended in the same manner as provided in subsection (5). A county may reserve not more than 7% of the county's full payment for projects in accordance with Title III of section 601 of Public Law 110-343. The balance of the funds may be:

(a) reserved for projects in accordance with Title II of section 601 of Public Law 110-343 or any similar subsequent act; or

(b) returned to the United States.

(9) (a) If a county's full payment is more than $100,000 but less than or equal to $350,000, the county may use all of the funds as provided in Title II or Title III of section 601 of Public Law 110-343 or any similar subsequent act, or return the funds to the United States.

(b) If a county's full payment is less than or equal to $100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).

History: En. Sec. 3, Ch. 26, L. 1915; re-en. Sec. 177, R.C.M. 1921; amd. Sec. 1, Ch. 66, L. 1931; re-en. Sec. 177, R.C.M. 1935; R.C.M. 1947, 79-205; amd. Sec. 1, Ch. 413, L. 1983; amd. Sec. 5, Ch. 11, Sp. L. June 1989; amd. Sec. 1, Ch. 711, L. 1991; amd. Sec. 3, Ch. 334, L. 2001; amd. Sec. 3, Ch. 105, L. 2009; amd. Sec. 3, Ch. 283, L. 2017.

Cross-References

Use of county road fund, 7-14-2513.

Basic county tax and other revenue for county equalization of elementary district BASE funding program, 20-9-331.

17-3-214. Repealed. Sec. 253, Ch. 574, L. 2001.

History: En. Sec. 4, Ch. 26, L. 1915; re-en. Sec. 178, R.C.M. 1921; re-en. Sec. 178, R.C.M. 1935; R.C.M. 1947, 79-206.

17-3-215 through 17-3-220 reserved.

17-3-221. State treasurer to be custodian of money received under Taylor Grazing Act. The state treasurer is the custodian of all money that the treasurer of the United States transfers to the state of Montana under the terms of section 10 of the Taylor Grazing Act, 43 U.S.C. 315i, to be expended as the legislature may prescribe. The money must be deposited in the federal special revenue fund.

History: En. Sec. 1, Ch. 146, L. 1935; re-en. Sec. 191.1, R.C.M. 1935; R.C.M. 1947, 79-701; amd. Sec. 94, Ch. 42, L. 1997; amd. Sec. 10, Ch. 532, L. 1997.

17-3-222. Apportionment of money to counties. (1) The state treasurer shall apportion the money received under 17-3-221 to the appropriate counties and then allocate the money due each county as follows:

(a) 50% to the county treasurer for deposit in the county general fund; and

(b) 50% to the school equalization and property tax reduction account established in 20-9-336 to be used for the elementary BASE funding programs of the school districts in the county.

(2) The payments from the state to the county treasurers provided for in subsection (1) are statutorily appropriated as provided in 17-7-502.

History: En. Sec. 2, Ch. 146, L. 1935; re-en. Sec. 191.2, R.C.M. 1935; amd. Sec. 1, Ch. 55, L. 1937; amd. Sec. 1, Ch. 102, L. 1939; amd. Sec. 1, Ch. 96, L. 1949; R.C.M. 1947, 79-702; amd. Sec. 2, Ch. 22, L. 1997; amd. Sec. 11, Ch. 532, L. 1997; amd. Sec. 45, Ch. 51, L. 1999; amd. Sec. 4, Ch. 41, L. 2003; amd. Sec. 1, Ch. 53, L. 2005; amd. Sec. 2, Ch. 94, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 94, L. 2025. Amendment effective July 1, 2025.

Cross-References

Basic county tax and other revenue for county equalization of elementary district BASE funding program, 20-9-331.

17-3-223 through 17-3-230 reserved.

17-3-231. Flood Control Act — distribution of revenues to counties. All moneys received or hereafter to be received by the state from the secretary of the treasury of the United States, under and by virtue of the Flood Control Act of 1954, under 33 U.S.C. 701c-3, shall be distributed by the state to the county treasurers of the counties of the state wherein the flood control land is situated.

History: En. Sec. 1, Ch. 156, L. 1959; R.C.M. 1947, 79-2101.

Cross-References

Flood plain and floodway management, Title 76, ch. 5.

17-3-232. Deposit and expenditure of funds by counties. All moneys received or to be received by the county treasurers of the counties of the state wherein such flood control land is situated shall be deposited in the funds designated as the county common school tax fund and the general public road fund and shall be expended as follows: of all moneys received or to be received, 50% shall be expended for the benefit of the county common schools in the county concerned and 50% shall be expended for the benefit of the general public roads in the county concerned.

History: En. Sec. 2, Ch. 156, L. 1959; R.C.M. 1947, 79-2102.

Cross-References

City and county road funds, 7-14-2512.

Basic county tax and other revenue for county equalization of elementary district BASE funding program, 20-9-331.

17-3-233 through 17-3-239 reserved.

17-3-240. Federal mineral leasing funds. (1) Except as provided in subsection (2), money paid to the state pursuant to 30 U.S.C. 191 must be deposited in the state general fund.

(2) In fiscal year 2005 and each succeeding fiscal year, 25% of all money received pursuant to subsection (1) must be deposited in the mineral impact account established in 17-3-241 and is dedicated to local governments.

(3) On August 15 following the close of the fiscal year, the state treasurer shall distribute the revenue dedicated in subsection (2). The distribution to the eligible counties must be based

on the proportion that the total amount of revenue generated by mineral extraction in an eligible county bears to the total amount of money received by the state.

History: En. Sec. 1, Ch. 594, L. 2001; amd. Sec. 1, Ch. 5, Sp. L. August 2002; amd. Sec. 1, Ch. 568, L. 2005.

17-3-241. Mineral impact account. There is a mineral impact account. Money must be deposited in the impact account as provided in 17-3-240. The money in the impact account must be distributed to counties from which the minerals were produced that resulted in the deposit of the mineral royalty revenue in the impact account. Beginning July 1, 2003, the impact account is statutorily appropriated, as provided in 17-7-502.

History: En. Sec. 2, Ch. 594, L. 2001.

Part 3
Federal Sums in Lieu of Taxes

Part Cross-References

Rate of privilege — tax credit for federal payments in lieu of taxes, 15-24-1204.

17-3-301. Definitions. The following definitions shall be applied to the terms used in this part:

(1) "Agreement" shall mean contract and shall include renewals and alterations of a contract.

(2) "Department" shall mean the department of revenue of the state of Montana.

(3) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States, located within this state, and shall include persons inhabiting such project.

(4) "Services" shall mean such public and state functions as are performed for property in and persons residing within this state.

(5) "State" shall mean the state of Montana.

(6) "United States" shall mean the United States of America.

History: En. Sec. 1, Ch. 58, L. 1939; amd. Sec. 203, Ch. 516, L. 1973; R.C.M. 1947, 84-5501.

17-3-302. Requests for sums in lieu of taxes and agreements to perform services. The department is hereby authorized and empowered to make requests of the United States for and on behalf of this state for payment of such sums in lieu of taxes as the United States may agree to pay and to consummate agreements with the United States, in the name of this state, for the performance of services by the state for the benefit of projects and for the payment by the United States to the state, in one or more installments, of such sums in lieu of taxes.

History: En. Sec. 2, Ch. 58, L. 1939; amd. Sec. 204, Ch. 516, L. 1973; R.C.M. 1947, 84-5502.

17-3-303. Basis for amount of payment. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to the state of performing services for the benefit of the projects during the period of agreement, after taking into consideration the benefits to be derived by the state from such projects, but shall not be in excess of the taxes which would result to the state for the period if the real property of the projects within the state were taxable.

History: En. Sec. 3, Ch. 58, L. 1939; R.C.M. 1947, 84-5503.

17-3-304. Duplicate of agreement — filing — receipt for tax. A duplicate copy of every agreement for payment of sums in lieu of taxes shall be filed in the office of the treasurer of this state. On or before the date on which any payment of sums in lieu of taxes is due, the state treasurer shall present a bill to the United States in the name of the state in the amount of such payment. The state treasurer shall give to the United States a receipt in the name of the state for all payments of sums in lieu of taxes.

History: En. Sec. 4, Ch. 58, L. 1939; R.C.M. 1947, 84-5504.

17-3-305. Disposal of moneys. All payments of sums in lieu of taxes received by this state shall be deposited in funds according to the state levies.

History: En. Sec. 5, Ch. 58, L. 1939; amd. Sec. 1, Ch. 42, L. 1947; R.C.M. 1947, 84-5505.

Parts 4 through 9 reserved

Part 10
Endowments

Part Cross-References
Montana State University - Bozeman, 20-25-424.

17-3-1001. State institutions which may take by gift, bequest, or grant — restriction. (1) The state of Montana, units of the Montana university system, the Montana school for the deaf and blind, all institutions in the department of corrections and the department of public health and human services, and any institutions now created or established or which may be created or established and supported in whole or in part by the state for any purpose may accept gifts, donations, grants, devises, or bequests of real or personal property from any source. Gifts, donations, grants, bequests, or devises may be made directly to the state, in the name of any of the institutions, to any officer or board of the institutions, or to any person in trust for the institutions.

(2) In the event it is made directly to any institution or to any officer or board of any institution, the gift, donation, grant, devise, or bequest is a gift, donation, grant, devise, or bequest to the state and must be administered and used by the state for the particular purpose for which it was given, donated, granted, bequeathed, or devised. In the event that a particular purpose is not mentioned in the gift, grant, devise, or bequest, then it must be used for the general support, maintenance, or improvement of the institution by the state.

(3) A gift, donation, grant, devise, or bequest may not be accepted or used in contravention of 13-35-238.

History: En. Sec. 1, Ch. 17, L. 1913; re-en. Sec. 6978, R.C.M. 1921; re-en. Sec. 6978, R.C.M. 1935; amd. Sec. 96, Ch. 199, L. 1965; R.C.M. 1947, 91-105; amd. Sec. 3, Ch. 540, L. 1979; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 55, Ch. 546, L. 1995; amd. Sec. 3, Ch. 325, L. 2023.

Cross-References
Sale of property when resolution passed after hearing — appeal procedure, 20-6-604.
Community college — acceptance of donations, 20-15-109.
Fire services training school — acceptance of gifts and grants — contractual agreements, 20-31-401.
Department of Corrections, 53-1-202.
Planning board — acceptance and administration of gifts and donations, 76-1-408.
Acquisition and designation of real property by public body, 76-6-106.
Acquisition of conservation easements by qualified private organizations, 76-6-204.
Conservation district — acquisition and management of property, 76-15-404.
Board of Land Commissioners — acceptance of gifts, donations, grants, legacies, and devises to state, 77-1-213.

17-3-1002. Persons who may make gifts to state institutions. (1) A donation, gift, grant, bequest, devise, or testamentary disposition of property, real or personal, may be made by any person over the age of 18 years and of sound mind to the state, a unit of the Montana university system, the state school for deaf and blind, an institution in the department of corrections or the department of public health and human services, and any and all institutions now created or established or that may be created or established and supported, in whole or in part, by the state for any purpose. Any person, corporation, or association of persons may make any gift, donation, or grant of property, real or personal, to the state, or to any of the institutions referred to in this section.

(2) In the event that any gift, donation, grant, devise, or bequest is made to any institution or to any officer or board of any institution, the same must be construed as a gift, donation, grant, devise, or bequest to the state and must be administered and used for the state for the particular purpose for which the same was given, donated, granted, bequeathed, or devised. In the event that a particular purpose is not mentioned in the gift, grant, devise, or bequest, then the same must be used for the general support, maintenance, or improvement of the institution by the state.

History: En. Sec. 2, Ch. 17, L. 1913; re-en. Sec. 6979, R.C.M. 1921; re-en. Sec. 6979, R.C.M. 1935; amd. Sec. 97, Ch. 199, L. 1965; R.C.M. 1947, 91-106; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 56, Ch. 546, L. 1995.

17-3-1003. Support of state institutions. (1) Except as provided in subsection (5), for the support and endowment of each state institution, there is annually and perpetually appropriated, after any deductions made under 77-1-109, the income from all permanent endowments for the institution and from all land grants as provided by law. All money received or collected in connection with permanent endowments by all higher educational institutions,

reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to withdrawal or repayment, must be paid to the state treasurer, who shall deposit the money to the credit of the proper fund.

(2) Except as provided in subsections (1), (3), and (5), all money received from the investment of grants of a state institution and all money received from the leasing of lands granted to a state institution must be deposited with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

(3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for the support of the institution.

(4) The board of regents shall designate, at least once a biennium, whether the timber sale proceeds from Montana university system lands must be distributed to the beneficiaries or placed in the permanent fund.

(5) Except as provided in 77-1-109, income received from certain lands and riverbeds pursuant to 77-1-103(4) or 77-4-208 must be deposited as follows:

(a) from July 1, 2011, through June 30, 2014, to the guarantee account provided for in 20-9-622; and

(b) on or after July 1, 2014, to the school facility and technology account provided for in 20-9-516.

History: (1)En. Sec. 3, Ch. 112, L. 1921; re-en. Sec. 194, R.C.M. 1921; re-en. Sec. 194, R.C.M. 1935; amd. Sec. 3, Ch. 14, L. 1941; amd. Sec. 11, Ch. 147, L. 1963; amd. Sec. 3, Ch. 298, L. 1973; Sec. 79-601, R.C.M. 1947; (2)En. Sec. 1, Ch. 120, L. 1909; re-en. Sec. 1922, R.C.M. 1921; re-en. Sec. 1922, R.C.M. 1935; amd. Sec. 1, Ch. 89, L. 1961; amd. Sec. 24, Ch. 147, L. 1963; amd. Sec. 5, Ch. 286, L. 1977; Sec. 79-1401, R.C.M. 1947; R.C.M. 1947, 79-601, 79-1401; amd. Sec. 2, Ch. 277, L. 1983; amd. Sec. 3, Ch. 700, L. 1989; amd. Sec. 2, Ch. 14, Sp. L. January 1992; amd. Sec. 5, Ch. 533, L. 1993; amd. Sec. 3, Ch. 122, L. 1999; amd. Sec. 1, Ch. 355, L. 2003; amd. Sec. 2, Ch. 465, L. 2009; amd. Sec. 1, Ch. 371, L. 2011.

Cross-References

The Enabling Act, sec. 11 (see anno. vol. 1).

Fund structure, 17-2-102.

Miscellaneous finance — University System, Title 20, ch. 25, part 4.

17-3-1004. Disbursement of funds. (1) The money received by the state treasurer under the provisions of 17-3-1003 may be paid out of the treasury only on a warrant issued by the treasurer in payment of claims for expenses actually incurred for the support and maintenance of the institution filing the claims.

(2) In the payment of claims presented by a state institution entitled to interest and income from land grants or money from a land grant, a warrant may not be drawn against the appropriation made by the state out of the general fund for the maintenance of the institution filing the claim until interest and income money available for the payment of the items in the claim is exhausted.

History: (1)En. Sec. 2, Ch. 120, L. 1909; re-en. Sec. 1923, R.C.M. 1921; re-en. Sec. 1923, R.C.M. 1935; amd. Sec. 2, Ch. 89, L. 1961; Sec. 79-1402, R.C.M. 1947; (2)En. Sec. 3, Ch. 120, L. 1909; re-en. Sec. 1924, R.C.M. 1921; re-en. Sec. 1924, R.C.M. 1935; amd. Sec. 3, Ch. 89, L. 1961; amd. Sec. 25, Ch. 147, L. 1963; Sec. 79-1403, R.C.M. 1947; R.C.M. 1947, 79-1402, 79-1403; amd. Sec. 10, Ch. 325, L. 1995.

CHAPTER 4
DEBT COLLECTION

Part 1 — Debt Collection Service

17-4-101. Definitions.
17-4-102. Accounts of persons indebted to state.
17-4-103. Collection of claims by department.
17-4-104. Circumstances when department shall assist.
17-4-105. Authority to collect debt — offsets.
17-4-106. Agency owed debt to receive all money collected.
17-4-107. Writeoff procedures.
17-4-108. Circumstances under which previously written-off debt may be collected.
17-4-109. Debts not collectible under this part.
17-4-110. State agencies to adopt rules.
17-4-111. Right of hearing to aggrieved persons.

Chapter Cross-References
Attorney General — representation of state in bankruptcy proceedings. 2-15-503.
Debtor and creditor relationships, Title 31, ch. 2.

Part 1
Debt Collection Service

17-4-101. Definitions. In this part, the following definitions apply unless the context indicates otherwise:

(1) "Agency" includes:

(a) all offices, departments, divisions, boards, commissions, councils, committees, institutions, university units, political subdivisions, and other entities or instrumentalities of this state government;

(b) with respect to delinquent taxes that the department is requested to collect, state and local entities whose personal property taxes are collected by the county treasurer; and

(c) the federal internal revenue service.

(2) "Department" means the department of revenue provided for in 2-15-1301.

History: En. 84-7102 by Sec. 2, Ch. 118, L. 1974; R.C.M. 1947, 84-7102; amd. Sec. 11, Ch. 325, L. 1995; amd. Secs. 1, 7, Ch. 589, L. 1995; amd. Sec. 1, Ch. 17, L. 1997; amd. Sec. 7, Ch. 48, L. 1997; amd. Sec. 1, Ch. 105, L. 1999.

17-4-102. Accounts of persons indebted to state. (1) The department may:

(a) examine and settle the accounts of persons indebted to agencies, certify the amount owed, and give the person a discharge;

(b) require a person presenting an account for settlement to be sworn and to answer, orally or in writing, as to any facts relating to the account.

(2) The certificate referred to in subsection (1)(a) must show by whom the payment is to be made, the amount of the payment, and the fund into which the payment is to be deposited. The certificates must be numbered in order, beginning with number 1 at the commencement of each fiscal year.

History: (1)En. Sec. 420, Pol. C. 1895; re-en. Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; Sec. 79-101, R.C.M. 1947; (2)En. Sec. 421, Pol. C. 1895; re-en. Sec. 171, Rev. C. 1907; re-en. Sec. 152, R.C.M. 1921; Cal. Pol. C. Sec. 434; re-en. Sec. 152, R.C.M. 1935; amd. Sec. 2, Ch. 94, L. 1969; Sec. 79-102, R.C.M. 1947; R.C.M. 1947, 79-101(7), (8), 79-102; amd. Sec. 12, Ch. 325, L. 1995; amd. Sec. 2, Ch. 589, L. 1995.

17-4-103. Collection of claims by department. (1) (a) The department may examine the collection of money due an agency and institute suits:

(i) in its name for official delinquencies in relation to the assessment, collection, and payment of the revenue;

(ii) against persons who possess public money or property and fail to pay over or deliver the money or property; and

(iii) against debtors of the agencies.

(b) The courts of the county where the seat of government is located have jurisdiction, without regard to the residence of the defendants, over the collection suits authorized by this section.

(2) Whenever a person has money or other personal property that belongs to the state by escheat or otherwise or has been entrusted with the collection, management, or disbursement of money, bonds, or interest accruing from the money or bonds, belonging to or held in trust by the state, and fails to render an account of the money or personal property to and make settlement with the department within the time prescribed by law or, when a particular time is not specified, fails to render an account and make settlement or fails to pay into the state treasury the money belonging to the state, upon being required to do so by the department, within 20 days after the requisition, the department shall state an account with that person, charging 25% damages and interest at the rate of 10% a year from the time of the failure. A copy of the account in a suit is prima facie evidence of the things stated in the account, but when the department cannot for want of information state an account, the department may in an action aver that fact and allege generally the amount of money or other property due or belonging to the state.

(3) (a) The department may assist in the collection of a delinquent account owing to an agency and may separately charge the agency for the cost of assistance. The department may enter into an agreement with an agency to assist in the collection of a delinquent account. The department may designate the percentage of collected proceeds to be retained for the cost of assistance. The cost of assistance for collecting personal property taxes that would otherwise be collected by the county treasurer must be allocated in the same manner in which the taxes are distributed.

(b) A delinquent personal property tax usually collected by the county treasurer may be collected by the department only on request of the board of county commissioners. The request must be accompanied by proof of the amount of tax due and proof of the delinquency. The board shall also provide proof that, at least 30 days before making the request, the county has notified the delinquent taxpayer by mail of the board's intention to request assistance from the department.

(4) The department may provide a collection service for the general purpose of centralizing the collection of all debts owed to agencies.

History: **(1)En. Sec. 420, Pol. C. 1895; re-en. Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; Sec. 79-101, R.C.M. 1947; (2)En. Sec. 424, Pol. C. 1895; re-en. Sec. 174, Rev. C. 1907; re-en. Sec. 155, R.C.M. 1921; Cal. Pol. C. Sec. 437; re-en. Sec. 155, R.C.M. 1935; Sec. 79-105, R.C.M. 1947; (3)En. 84-7103 by Sec. 3, Ch. 118, L. 1974; Sec. 84-7103, R.C.M. 1947; (4)En. 84-7101 by Sec. 1, Ch. 118, L. 1974; Sec. 84-7101, R.C.M. 1947; R.C.M. 1947, 79-101(12), 79-105, 84-7101, 84-7103; amd. Sec. 1, Ch. 419, L. 1989; amd. Sec. 1, Ch. 97, L. 1991; amd. Sec. 13, Ch. 325, L. 1995; amd. Sec. 16, Ch. 529, L. 1995; amd. Secs. 3, 7, Ch. 589, L. 1995; amd. Sec. 1, Ch. 39, L. 2023.**

Cross-References

Collection of delinquent taxes — warrant for distraint, Title 15, ch. 1, part 7.
Reporting delinquent taxes, Title 15, ch. 16, part 3.
Liens and limitations, Title 15, ch. 16, part 4.
Collection by suit, Title 15, ch. 16, part 5.
Venue for actions to recover statutory penalty or forfeiture, 25-2-124.
Legal interest, 31-1-106.
Escheat, 70-1-203.

17-4-104. Circumstances when department shall assist. Subject to and in accordance with rules adopted by the department, the department shall render assistance in the collection of accounts owing to any state agency if all of the following procedures have been completed to the department's satisfaction:

(1) A state agency shall make all reasonable efforts to collect money owed to it and shall determine that the money and any interest or penalties are uncollectible in accordance with criteria for uncollectibility formulated by that agency.

(2) Once a state agency has determined that an account owed to it is uncollectible, it shall certify to the department the amount of the money, interest, and penalties, as accurately as can be determined. The department may require the agency to submit all relevant evidence and other information regarding the debt and may examine the records of any other state agency that may be pertinent in determining the uncollectibility of the debt, unless examination is specifically prohibited by law.

(3) If the department finds that the debt is uncollectible in accordance with the criteria for uncollectibility of money due that state agency, the department shall direct the agency to write off the debt on its accounts and transfer the debt to the department.

(4) Debts described in 17-4-105(4) need not be determined uncollectible for purposes of this section.

History: **En. 84-7104 by Sec. 4, Ch. 118, L. 1974; amd. Sec. 1, Ch. 248, L. 1977; R.C.M. 1947, 84-7104; amd. Sec. 2, Ch. 419, L. 1989; amd. Sec. 14, Ch. 325, L. 1995.**

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
State agencies to adopt rules, 17-4-110.

17-4-105. Authority to collect debt — offsets. (1) When the department enters into an agreement to collect a delinquent account pursuant to 17-4-103(3) or a debt of an agency has been transferred to the department pursuant to 17-4-104, the department may collect it. The department may contract with commercial collection agents for recovery of debts owed to agencies.

(2) The department shall, when appropriate, offset any amount due an agency from a person or entity against any amount, including refunds of taxes, owing the person or entity by an agency. The department may not exercise this right of offset until the debtor has first been notified by the department and been given an opportunity for a hearing pursuant to 15-1-211. An offset may not be made against any amount paid out as child support collected by the department of public health and human services. The department shall deduct from the claim and draw warrants for the amounts offset in favor of the respective agencies to which the debt is due and for any balance in favor of the claimant. Whenever insufficient to offset all amounts due the agencies, the amount available must be applied first to debts owed by reason of the nonpayment of child support and then in the manner determined appropriate by the department.

(3) (a) The department may enter into an agreement with the federal government to offset against tax refunds payable by the federal government and pay to the state any taxes or other debts owed to an agency of the state. Except as provided in subsection (3)(c), the state may also enter into a reciprocal agreement with the federal government for the state to offset against tax refunds payable by the state and pay to the federal government any taxes or other debts owed to the federal government.

(b) For purposes of offsetting of debts referred to in subsection (3)(a), offsets or payments will be made in the following priority:

(i) child support payments;

(ii) any debts that are owed to this state, an agency of this state as defined in 17-4-101, or a local government unit, including a county, city, town, consolidated city-county, school district, or local public entity with the authority to spend or receive public funds; and

(iii) any debts owed to the federal government.

(c) Taxes or debts that cannot be liened or levied upon pursuant to 26 U.S.C. 5000A(g) must be excluded from the offset.

(d) (i) The department may enter into an agreement with another state or an agency of another state to offset against tax refunds payable by the other state or agency of the other state and pay to this state any taxes or other debts owed to this state or an agency of this state.

(ii) To facilitate an agreement of the kind authorized by subsection (3)(d)(i), the department may enter into an agreement that allows the other state or agency of the other state to offset against tax refunds payable by this state the whole or part of an amount owed for taxes to the other state or agency of the other state. However, the department may enter into an agreement of the type authorized by subsection (3)(a) or (3)(d)(i) only if the other state or agency of the other state or the federal government allows the offset against tax refunds owed by the other state or agency of the other state or the federal government any taxes or other debts owed to this state or an agency of this state.

(e) A state or agency of another state or the federal government entering into an agreement with the department pursuant to subsection (3)(a) or (3)(d)(i) may not exercise the offset against tax refunds unless the other state or agency of the other state or the federal government has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt. Another state or agency of another state intending to offset taxes shall provide the department with proof of notification and opportunity for review or appeal before the offset is exercised.

(4) (a) A debt owed to the department of public health and human services or being collected by the department of public health and human services on behalf of any person or agency may be offset by the department if the debt is being enforced or collected by the department of public health and human services under Title IV-D of the Social Security Act.

(b) The debt does not need to be determined to be uncollectible as provided for in 17-4-104 before being transferred to the department for offset. The debt must have accrued through written contract, court judgment, administrative order, or a distribution the recipient was not entitled to retain as described in 40-5-910.

(c) Within 30 days following the notification provided for in subsection (2), the person owing a debt described in subsection (4)(a) may request a hearing. The request must be in writing and be mailed to the department. The person owing a debt is not entitled to a hearing if the amount of the debt has been the subject matter of any proceeding conducted for the purpose

of determining the validity of the debt and a decision made as a result of that proceeding has become final. The hearing must initially be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. The department of public health and human services shall adopt rules governing the hearing procedures.

(5) If the department determines that a person or entity has refused or neglected to file a claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of the person or entity. If the claim is approved by the department, the claim has the same force and effect as if it were filed by the person or entity. The amount due any person or entity from the state or any agency of the state is the net amount otherwise owing the person or entity after any offset, as provided in this section.

(6) A debt owed to a state agency by a local government may not be offset against a payment due to a local government pursuant to 15-1-121.

History: (1)En. 84-7105 by Sec. 5, Ch. 118, L. 1974; amd. Sec. 2, Ch. 248, L. 1977; Sec. 84-7105, R.C.M. 1947; (2), (3)En. Sec. 420, Pol. C. 1895; re-en Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974.; Sec. 79-101, R.C.M. 1947; R.C.M. 1947, 79-101(13), 84-7105; amd. Sec. 2, Ch. 160, L. 1985; amd. Sec. 1, Ch. 679, L. 1985; amd. Sec. 3, Ch. 419, L. 1989; amd. Sec. 28, Ch. 702, L. 1989; amd. Sec. 2, Ch. 429, L. 1993; amd. Sec. 15, Ch. 325, L. 1995; amd. Sec. 57, Ch. 546, L. 1995; amd. Secs. 4, 7, Ch. 589, L. 1995; amd. Sec. 1, Ch. 482, L. 1997; amd. Sec. 100, Ch. 552, L. 1997; amd. Sec. 2, Ch. 105, L. 1999; amd. Sec. 2, Ch. 236, L. 2003; amd. Sec. 1, Ch. 184, L. 2009; amd. Sec. 3, Ch. 338, L. 2015; amd. Sec. 2, Ch. 39, L. 2023.

Cross-References

Notice, 2-4-601.

Credits and refunds — period of limitations, 15-30-2609.

Department of Revenue authorized to collect delinquent taxes by offset of tax refunds or wages, 15-30-2629.

17-4-106. Agency owed debt to receive all money collected. (1) All money collected by the department on debts transferred to the department by the various agencies, except funds collected under 17-4-103(3), must be deposited to the account or fund of the agency to which the debt was originally owed. A county shall apply a delinquent personal property tax collection by the department to the payment of the taxpayer's most delinquent personal property taxes or portion of the taxes.

(2) Funds collected under 17-4-103(3) must be deposited in an account in the internal service fund for the cost of assistance of debt collection by the department. Funds deposited in excess of the amount appropriated for operation of the debt collection program must be carried forward into the next fiscal year for operation of the debt collection program. Any excess carried forward into the next fiscal year must be used to reduce the designated percentage of the collected proceeds charged to the various agencies.

History: En. 84-7106 by Sec. 6, Ch. 118, L. 1974; amd. Sec. 3, Ch. 248, L. 1977; R.C.M. 1947, 84-7106; amd. Sec. 4, Ch. 419, L. 1989; amd. Sec. 2, Ch. 97, L. 1991; amd. Sec. 16, Ch. 325, L. 1995; amd. Secs. 5, 7, Ch. 589, L. 1995; amd. Sec. 2, Ch. 17, L. 1997; amd. Sec. 1, Ch. 7, Sp. L. August 2002; amd. Sec. 41, Ch. 114, L. 2003.

17-4-107. Writeoff procedures. The department may establish procedures for canceling and writing off accounts receivable carried on the books of the various state agencies if the accounts have been transferred to the department pursuant to 17-4-104 and are uncollectible or if the continued pursuance of the collection of the accounts would cost the state more than the amount collected.

History: (1)En. 84-7107 by Sec. 7, Ch. 118, L. 1974; amd. Sec. 4, Ch. 248, L. 1977; Sec. 84-7107, R.C.M. 1947; (2)En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971; amd. Sec. 50. Ch. 326, L. 1974; Sec. 82-110, R.C.M. 1947; R.C.M. 1947, 82-110(3), 84-7107; amd. Sec. 5, Ch. 419, L. 1989; amd. Sec. 22, Ch. 112, L. 1991; amd. Sec. 19, Ch. 349, L. 1993; amd. Sec. 17, Ch. 325, L. 1995; amd. Sec. 3, Ch. 17, L. 1997; amd. Sec. 3, Ch. 347, L. 1997.

17-4-108. Circumstances under which previously written-off debt may be collected. If a debt previously written off under 17-4-107 subsequently becomes collectible, the department shall proceed to collect the money due pursuant to 17-4-105(1) and 17-4-106.

History: En. 84-7108 by Sec. 8, Ch. 118, L. 1974; R.C.M. 1947, 84-7108; amd. Sec. 6, Ch. 419, L. 1989; amd. Sec. 18, Ch. 325, L. 1995; amd. Sec. 4, Ch. 17, L. 1997; amd. Sec. 4, Ch. 347, L. 1997.

17-4-109. Debts not collectible under this part. This part does not apply to unliquidated debts and to debts owed to a state agency for which a procedure for compromise, release, discharge, waiver, cancellation or other form of settlement thereof for reasons other than uncollectibility is by law made specifically applicable to such state agency.

History: En. 84-7109 by Sec. 9, Ch. 118, L. 1974; R.C.M. 1947, 84-7109.

17-4-110. State agencies to adopt rules. All state agencies shall adopt rules and forms to participate in and carry out the provisions of this part.

History: En. 84-7110 by Sec. 10, Ch. 118, L. 1974; R.C.M. 1947, 84-7110.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

17-4-111. Right of hearing to aggrieved persons. A person aggrieved from a decision or an action taken under this part has the right to present the grievances in the same manner as provided by 17-4-105(4)(c) and subject to the contested case procedures of the Montana Administrative Procedure Act for taxpayer appeals.

History: En. 84-7111 by Sec. 11, Ch. 118, L. 1974; R.C.M. 1947, 84-7111; amd. Sec. 7, Ch. 419, L. 1989; amd. Sec. 3, Ch. 105, L. 1999.

Cross-References

Tax appeal procedure, Title 15, ch. 2, part 3.

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PUBLIC BOND ISSUES

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Chapter Cross-References

Use of facsimile signatures on bonds, 2-16-114.
Municipality bond issue — annexation, 7-2-4731 through 7-2-4733.
County debt limits, 7-7-2101, 7-7-2102.
County finance — bonds and warrants, Title 7, ch. 7, part 22.
Municipal bonds and indebtedness, Title 7, ch. 7, part 42.
Municipal revenue bonds, Title 7, ch. 7, part 44.
Rural improvement district bonds, 7-12-2169 through 7-12-2173.
Special improvement district bonds, Title 7, ch. 12, part 42.
County water and sewer district bonds, 7-13-2321, 7-13-2322.
Television districts, 7-13-2511.
Bonds of city, 7-13-4203 through 7-13-4206.
Urban transportation districts, 7-14-235, 7-14-236.
County road and bridge bonds, Title 7, ch. 14, part 25.
Municipality bond issue — bus lines, 7-14-4401, 7-14-4402.

Municipality bond issue — parking areas, 7-14-4501, 7-14-4502.
Parking Commission, Title 7, ch. 14, part 46.
Urban renewal, Title 7, ch. 15, parts 42 and 43.
Bonds of housing authority, 7-15-4501 through 7-15-4525.
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City bonds for public baths, 7-16-4111.
County bonds for smoke abatement, 7-31-106.
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County health care facility bonds authorized, 7-34-2411.
Ballots for bond issue elections, 13-17-306.
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School district and county school bonds, Title 20, ch. 9, part 4.
Bonds issued by Regents, 20-25-402.
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Bonds of irrigation districts, Title 85, ch. 7, part 20.
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Bonds of conservancy districts, 85-9-621.
County and city bonds of industrial development project, 90-5-103, 90-5-104.

Part 1
Rates of Interest — Notice

17-5-101. Definitions. As used in this part, the following definitions apply:

(1) "Bonds" include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates, and all instruments or obligations evidencing or representing indebtedness, evidencing or representing the borrowing of money, or evidencing or representing a charge, lien, or encumbrance on specific revenues, special assessments, income, or property of a political subdivision, including all instruments or obligations payable from a special fund.

(2) "Governing body" means the board, council, commission, or other body charged with the general control of the issuance of bonds of a political subdivision.

(3) (a) "Political subdivision" includes a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other governmental subdivision of the state.

(b) The term does not include the state of Montana, the board of examiners, the department of natural resources and conservation, the state transportation commission, or any other board, agency, or commission of the state.

History: En. Sec. 1, Ch. 234, L. 1971; R.C.M. 1947, 79-2601; amd. Sec. 6, Ch. 75, L. 1995; amd. Sec. 46, Ch. 418, L. 1995.

17-5-102. Rate of interest on bonds to be determined by governing bodies. (1) Bonds of a political subdivision shall bear interest at such rate or rates as its governing body shall determine.

(2) The provisions of this section establish the rate of interest on bonds of political subdivisions as defined in 17-5-101 and expressly supersede any other statutory limitation on the rate of interest to be borne by bonds of political subdivisions.

History: En. Sec. 2, Ch. 234, L. 1971; R.C.M. 1947, 79-2602; amd. Sec. 10, Ch. 500, L. 1981; amd. Sec. 1, Ch. 11, L. 1983.

17-5-103. Rate of interest on special assessments determined by governing bodies — limitations. All special assessments levied by a political subdivision must bear interest at a rate or rates determined by the political subdivision's governing body, except that the rate may not exceed the greater of 7% per annum or, in the event that the special assessments are appropriated for the payment of principal and interest on bonds issued by the political

subdivision, the rate of interest on the bonds plus an additional rate of interest, if any, on assessments authorized by statute to pay the principal and interest on those bonds.

History: En. Sec. 3, Ch. 234, L. 1971; R.C.M. 1947, 79-2603; amd. Sec. 17, Ch. 451, L. 2005.

17-5-104. Effect of revisions on bonds previously authorized. If prior to April 23, 1981, a political subdivision was authorized to issue bonds pursuant to a law that limited the rate of interest on the bonds, it may issue all of the bonds so authorized under the provisions of 17-5-102 even if the rate of interest on the bonds exceeds the maximum rate permissible prior to April 23, 1981.

History: En. Sec. 17, Ch. 500, L. 1981; amd. Sec. 1, Ch. 11, L. 1983.

17-5-105. Redemption of bonds — optional method. Between April 23, 1981, and July 1, 1983, a governing body in connection with the issuance of bonds may, at its option, provide that such bonds shall be redeemable at such time or times and upon such terms and conditions as the governing body shall deem to be in the best interest of the public, notwithstanding any statutory provision to the contrary.

History: En. Sec. 18, Ch. 500, L. 1981; amd. Sec. 1, Ch. 11, L. 1983.

17-5-106. Notice of public bond sale. Notwithstanding any other provision of state law relating to the publication of notice in advance of the sale of bonds, it is sufficient to publish the notice once a week for 2 consecutive weeks preceding the sale.

History: En. Sec. 1, Ch. 173, L. 1987.

17-5-107. Public or private sale — procedure for public sale. (1) The governing body of a political subdivision may sell its bonds at public or private sale as determined by the governing body and, if the bonds are sold at private sale, in denominations and forms approved by the governing body. If the governing body conducts a public sale, those provisions of state law regarding the public sale of bonds that pertain to the political subdivision govern the sale.

(2) The bonds must be sold at not less than 97% of the principal amount of the bonds if the governing body determines that a sale at that price is in the best interests of the political subdivision.

History: En. Sec. 1, Ch. 253, L. 2011.

Cross-References

County general obligation bonds, Title 7, ch. 7, part 22.
Municipal general obligation bonds, Title 7, ch. 7, part 42.
Municipal revenue bonds — sale of bonds, 7-7-4433.
Regional resource authorities — sale of bonds, 7-10-220.
Rural improvement districts — procedure to issue bonds and warrants, 7-12-2172.
Special improvement districts — procedure to issue bonds and warrants, 7-12-4204.
Municipal housing authorities — sale of bonds, 7-15-4507.
School bonds, Title 20, ch. 9, part 4.
Irrigation District Revenue Bond Act — sale of bonds, 85-7-1436.
Irrigation districts — private sale of bonds, 85-7-2033.
Conservancy districts — issuance of bonds — details of sale, 85-9-625.

17-5-108 through 17-5-110 reserved.

17-5-111. Electronic submission of bids. Any bid for the purchase of bonds to be submitted in writing or as a sealed bid may also be submitted by facsimile or other electronic transmission or through an electronic bidding system, as authorized by the governing body in the resolution authorizing the sale of the bonds.

History: En. Sec. 21, Ch. 451, L. 2005.

17-5-112 through 17-5-115 reserved.

17-5-116. Allocation of bonding limits — American Recovery and Reinvestment Act of 2009. Unless the regulations adopted by the United States secretary of the treasury specify otherwise:

(1) the office of public instruction is responsible for allocating the state's share of qualified school construction bonds as authorized in section 1521 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the state's allocated share of qualified zone academy bonds as authorized in section 54E of the Internal Revenue Code, 26 U.S.C. 54E;

(2) the department of administration is responsible for allocating the state's share of qualified energy conservation bonds as authorized in section 54D of the Internal Revenue Code,

26 U.S.C. 54D, as amended by section 1112 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(3) the department of administration, in consultation with the department of commerce, is responsible for allocating the state's share of recovery zone economic development bonds and recovery zone facility bonds, as authorized in section 1401 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

History: En. Sec. 43, Ch. 489, L. 2009.

17-5-117. Tax credit bonds. (1) As used in this section, "tax credit bond" means any general obligation bond, impact aid revenue bond, special improvement district bond, revenue bond, industrial development bond, tax increment bond, or any other bond of the state or a political subdivision that has been duly authorized and is eligible for designation as and has been designated as a qualified tax credit bond under section 54A, section 54D, section 54E, section 54F, or section 54AA of the Internal Revenue Code, 26 U.S.C. 54A, 54D, 54E, 54F, or 54AA.

(2) Any bond issued as a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the governing body of the issuer, and may have other terms and conditions that the issuer considers to be necessary and appropriate.

(3) The governing body of the issuer of any tax credit bond is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bond, including investment of funds and accounts to repay the bond.

History: En. Sec. 44, Ch. 489, L. 2009.

Part 2
Bond Validating Act

17-5-201. Short title. This part may be cited as the "Bond Validating Act".

History: En. 79-2001 by Sec. 1, Ch. 265, L. 1975; amd. Sec. 1, Ch. 564, L. 1977; R.C.M. 1947, 79-2001.

17-5-202. Definitions. As used in this part, the following definitions apply:

(1) "Bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates, and all instruments or obligations evidencing or representing indebtedness or evidencing or representing the borrowing of money or evidencing or representing a charge, lien, or encumbrance on specific revenues, income, or property of a public body, including all instruments or obligations payable from a special fund.

(2) "Public body" includes a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the state or any commission, authority, or agency of a political or governmental subdivision, and also includes the board of public education, the board of regents of higher education, the board of examiners, the department of natural resources and conservation, the state transportation commission, or any other governmental agency of this state.

History: En. 79-2002 by Sec. 2, Ch. 265, L. 1975; amd. Sec. 1, Ch. 486, L. 1975; amd. Sec. 2, Ch. 564, L. 1977; R.C.M. 1947, 79-2002; amd. Sec. 1, Ch. 282, L. 1981; amd. Sec. 6, Ch. 75, L. 1995; amd. Sec. 95, Ch. 42, L. 1997.

17-5-203. Validation. All bonds issued by any public body and all proceedings taken for the authorization and issuance of such bonds; for the levy, establishment, pledge, and appropriation of taxes, special assessments and other charges, and revenues to pay such bonds; and for the sale, exchange, execution, and delivery thereof, prior to the date set by and subject to the conditions set forth in 17-5-204, are validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing board or commission or officers thereof to authorize and issue such bonds or to sell, exchange, execute, or deliver the same and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution, or delivery, and bonds of such public bodies under the authority of such proceedings are binding, legal, valid, and enforceable obligations of such public body.

History: En. 79-2003 by Sec. 3, Ch. 265, L. 1975; amd. Sec. 3, Ch. 564, L. 1977; R.C.M. 1947, 79-2003.

Cross-References
State debt, Art. VIII, sec. 8, Mont. Const.
Local government debt, Art. VIII, sec. 10, Mont. Const.

17-5-204. Period of application. (1) This part does not apply to or affect any action or appeal instituted on or before the date to which it has most recently been extended, in which the validity of any such proceeding or of any such bonds is at issue.

(2) The application of this part may be extended by act of the legislature to any date provided therein.

History: En. 79-2004 by Sec. 4, Ch. 265, L. 1975; amd. Sec. 2, Ch. 486, L. 1975; amd. Sec. 4, Ch. 564, L. 1977; R.C.M. 1947, 79-2004; amd. Sec. 1, Ch. 2, L. 1979.

17-5-205. Application. The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to March 27, 2025.

History: En. Sec. 5, Ch. 564, L. 1977; R.C.M. 1947, 79-2005; amd. Sec. 2, Ch. 2, L. 1979; amd. Sec. 2, Ch. 282, L. 1981; amd. Sec. 1, Ch. 576, L. 1983; amd. Sec. 1, Ch. 182, L. 1985; amd. Sec. 1, Ch. 89, L. 1987; amd. Sec. 1, Ch. 159, L. 1989; amd. Sec. 1, Ch. 187, L. 1991; amd. Sec. 1, Ch. 19, L. 1993; amd. Sec. 1, Ch. 190, L. 1995; amd. Sec. 1, Ch. 31, L. 1997; amd. Sec. 1, Ch. 9, L. 1999; amd. Sec. 1, Ch. 8, L. 2001; amd. Sec. 1, Ch. 139, L. 2003; amd. Sec. 1, Ch. 9, L. 2005; amd. Sec. 1, Ch. 3, L. 2007; amd. Sec. 1, Ch. 438, L. 2009; amd. Sec. 1, Ch. 8, L. 2011; amd. Sec. 1, Ch. 18, L. 2013; amd. Sec. 1, Ch. 6, L. 2015; amd. Sec. 1, Ch. 108, L. 2017; amd. Sec. 1, Ch. 176, L. 2019; amd. Sec. 1, Ch. 157, L. 2021; amd. Sec. 1, Ch. 58, L. 2023; amd. Sec. 1, Ch. 27, L. 2025.

Compiler's Comments
2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 27, L. 2025. Amendment effective March 27, 2025.

Part 3
Refunding Bonds

Part Cross-References
Municipal refunding revenue bonds — option 1, Title 7, ch. 7, part 45.
The Revenue Bond Refinancing Act of 1937, Title 7, ch. 7, part 46.
Crossover refunding bonds — provisions, Title 17, ch. 5, part 21.

17-5-301. Refunding bonds or debentures authorized — interest rate. The board of examiners is hereby authorized and empowered to refund any issue of bonds, highway or other debentures heretofore issued by the state and which are outstanding or which may hereafter be issued by the state whenever in the judgment of such board it shall be deemed for the best interests of the state to do so. Refunding bonds or debentures shall not be issued in any greater amount than will be required to pay the principal and interest of the bonds or debentures to be refunded, costs of issuance, plus any defaulted interest thereon.

History: En. Sec. 1, Ch. 5, L. 1945; R.C.M. 1947, 79-1801; amd. Sec. 7, Ch. 184, L. 1983.

17-5-302. Character of bonds. (1) The board of examiners shall prescribe all details for the form, notice, and time of sale of the bonds or debentures.

(2) The bonds or debentures must be registered in the office of the state treasurer in a book to be provided for that purpose.

History: En. Sec. 2, Ch. 5, L. 1945; amd. Sec. 11, Ch. 260, L. 1959; R.C.M. 1947, 79-1802; amd. Sec. 1, Ch. 374, L. 2005.

Cross-References
Facsimile signatures and seals, 2-16-114.

17-5-303. Application of refunding bond law. All of the provisions of the act authorizing the issuance of the bonds or debentures which are to be refunded, insofar as the same relate to the issuance and sale, term and rate of interest, tax levies or funds for the payment and interest thereof, and time and manner of such payments, shall apply fully to such refunding bonds or debentures, except insofar as the same may be in conflict with the provisions of this part or with the provisions of any law authorizing particular refunding bonds.

History: En. Sec. 4, Ch. 5, L. 1945; R.C.M. 1947, 79-1804; amd. Sec. 8, Ch. 184, L. 1983.

17-5-304. Cost and expense of refunding. The board of examiners may pay the cost and expense of refunding any issue of bonds or debentures to be paid from the proceeds of the bonds or from the general fund.

History: En. Sec. 5, Ch. 5, L. 1945; R.C.M. 1947, 79-1805; amd. Sec. 9, Ch. 184, L. 1983; amd. Sec. 2, Ch. 374, L. 2005.

17-5-305. Sale of bonds and debentures. The refunding bonds or debentures that may be issued under the provisions of this part must be sold by the board of examiners in a manner that the board considers to be in the best interests of the state. However, if the state holds any bonds or debentures to be refunded by an issue of refunding bonds or debentures as investments of institutional or other funds, the original bonds or debentures may be exchanged for the refunding bonds or debentures if the exchange is authorized by the proper state officers or board.

History: En. Sec. 3, Ch. 5, L. 1945; R.C.M. 1947, 79-1803; amd. Sec. 10, Ch. 184, L. 1983; amd. Sec. 8, Ch. 342, L. 2009.

Part 4
Long-Range Building Program Bonds

Part Cross-References

Cigarette tax to retirement of long-range building bonds, 16-11-111.
Further long-range building bonds not to be issued under part, 17-5-802.
Long-range building program and budget, Title 17, ch. 7, part 2.
Liability of officers for failure to create debt service fund type for bond payment, 20-9-444.

17-5-401. Repealed. Sec. 7, Ch. 374, L. 2005.

History: En. Sec. 1, Ch. 276, L. 1965; amd. Sec. 1, Ch. 510, L. 1973; R.C.M. 1947, 79-2201(part); amd. Sec. 1, Ch. 298, L. 1983; amd. Sec. 1, Ch. 372, L. 1985.

17-5-402. Repealed. Sec. 7, Ch. 374, L. 2005.

History: En. Sec. 2, Ch. 276, L. 1965; amd. Sec. 2, Ch. 318, L. 1967; amd. Sec. 1, Ch. 146, L. 1969; amd. Sec. 1, Ch. 222, L. 1971; amd. Sec. 2, Ch. 510, L. 1973; R.C.M. 1947, 79-2202(part).

17-5-403. Repealed. Sec. 7, Ch. 374, L. 2005.

History: En. Sec. 2, Ch. 276, L. 1965; amd. Sec. 2, Ch. 318, L. 1967; amd. Sec. 1, Ch. 146, L. 1969; amd. Sec. 1, Ch. 222, L. 1971; amd. Sec. 2, Ch. 510, L. 1973; R.C.M. 1947, 79-2202(part); amd. Sec. 2, Ch. 298, L. 1983; amd. Sec. 20, Ch. 422, L. 1997.

17-5-404. Repealed. Sec. 7, Ch. 374, L. 2005.

History: En. Sec. 1, Ch. 276, L. 1965; amd. Sec. 1, Ch. 510, L. 1973; R.C.M. 1947, 79-2201(part); amd. Sec. 3, Ch. 298, L. 1983; amd. Sec. 2, Ch. 372, L. 1985; amd. Sec. 17, Ch. 703, L. 1985; amd. Sec. 21, Ch. 422, L. 1997.

17-5-405. Debt service account. (1) Money in the debt service account must be used:

(a) first, to pay interest and principal when due on long-range building program bonds;

(b) second, to accumulate a reserve in the amount required in subsection (1)(c), for the further security of the payments; and

(c) third, to maintain the reserve in an amount at least equal, after each interest and principal payment, to the maximum amount of interest and principal that will become due on all bonds that are outstanding in any subsequent fiscal year.

(2) Money at any time received in the debt service account in excess of the principal, interest, and reserve requirements stated in subsection (1) must be transferred by the treasurer to the general fund. If the balance at any time on hand in the debt service account is not sufficient for compliance with subsection (1), the treasurer shall credit to the debt service account an amount sufficient to restore the balance from the general fund.

History: En. Sec. 3, Ch. 276, L. 1965; amd. Sec. 3, Ch. 318, L. 1967; amd. Sec. 2, Ch. 222, L. 1971; amd. Sec. 3, Ch. 510, L. 1973; R.C.M. 1947, 79-2203(1) thru (3); amd. Sec. 4, Ch. 298, L. 1983; amd. Sec. 22, Ch. 422, L. 1997.

Cross-References

Fund structure, 17-2-102.

17-5-406. Use of debt service account. The debt service account shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay long-range building program bonds and interest thereon when due so long as any such bonds or interest remain unpaid.

History: En. Sec. 1, Ch. 276, L. 1965; amd. Sec. 1, Ch. 510, L. 1973; R.C.M. 1947, 79-2201(part); amd. Sec. 5, Ch. 298, L. 1983.

Cross-References

Fund structure, 17-2-102.

17-5-407. Repealed. Sec. 7, Ch. 374, L. 2005.

History: En. Sec. 3, Ch. 276, L. 1965; amd. Sec. 3, Ch. 318, L. 1967; amd. Sec. 2, Ch. 222, L. 1971; amd. Sec. 3, Ch. 510, L. 1973; R.C.M. 1947, 79-2203(4); amd. Sec. 6, Ch. 298, L. 1983.

17-5-408. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 3, Ch. 276, L. 1965; amd. Sec. 3, Ch. 318, L. 1967; amd. Sec. 2, Ch. 222, L. 1971; amd. Sec. 3, Ch. 510, L. 1973; R.C.M. 1947, 79-2203(5), (6); amd. Sec. 14, Ch. 634, L. 1979; amd. Sec. 4, Ch. 267, L. 1981; amd. Sec. 7, Ch. 298, L. 1983; amd. Sec. 3, Ch. 608, L. 1983; amd. Sec. 2, Ch. 450, L. 1985; amd. Sec. 3, Ch. 704, L. 1985; amd. Sec. 2, Ch. 666, L. 1987; amd. Sec. 4, Ch. 681, L. 1989; amd. Sec. 91, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 548, L. 1993; amd. Sec. 23, Ch. 422, L. 1997.

17-5-409. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 4, Ch. 276, L. 1965; amd. Sec. 4, Ch. 510, L. 1973; R.C.M. 1947, 79-2204.

17-5-410. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 5, Ch. 276, L. 1965; amd. Sec. 4, Ch. 318, L. 1967; amd. Sec. 2, Ch. 146, L. 1969; amd. Sec. 3, Ch. 222, L. 1971; amd. Sec. 5, Ch. 510, L. 1973; R.C.M. 1947, 79-2205; amd. Sec. 1, Ch. 644, L. 1979; amd. Sec. 1, Ch. 604, L. 1981.

17-5-411. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 2, Ch. 604, L. 1981; amd. Sec. 8, Ch. 298, L. 1983; amd. Sec. 64, Ch. 613, L. 1989.

17-5-412. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 3, Ch. 604, L. 1981; amd. Sec. 1, Ch. 349, L. 1981; amd. Sec. 9, Ch. 298, L. 1983.

17-5-413. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 4, Ch. 604, L. 1981.

17-5-414. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 1, Ch. 643, L. 1983; amd. Sec. 5, Ch. 643, L. 1983.

17-5-415. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 2, Ch. 643, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 5, Ch. 643, L. 1983.

17-5-416. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 3, Ch. 643, L. 1983; amd. Sec. 5, Ch. 643, L. 1983.

17-5-417. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 4, Ch. 643, L. 1983.

17-5-418 through 17-5-420 reserved.

17-5-421. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 1, Ch. 507, L. 1977; R.C.M. 1947, 78-1401(part); amd. Sec. 10, Ch. 298, L. 1983.

17-5-422. Terminated. Sec. 1, Ch. 33, Sp. L. June 1986.
History: En. Secs. 1, 2, Ch. 600, L. 1981; amd. Sec. 11, Ch. 298, L. 1983; amd. Sec. 1, Ch. 33, Sp. L. June 1986.

17-5-423. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 8, HB 861, L. 1985; amd. Sec. 5, Ch. 224, L. 1989.

17-5-424. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 9, HB 861, L. 1985.

17-5-425. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 10, HB 861, L. 1985; amd. Sec. 5, Ch. 224, L. 1989.

17-5-426. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 11, HB 861, L. 1985.

17-5-427 through 17-5-429 reserved.

17-5-430. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 10, Ch. 624, L. 1993; amd. Sec. 58, Ch. 546, L. 1995.

17-5-431. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 11, Ch. 624, L. 1993.

17-5-432. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 12, Ch. 624, L. 1993; amd. Sec. 59, Ch. 546, L. 1995.

17-5-433. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 13, Ch. 624, L. 1993.

Part 5
General Obligation Highway Bonds
(Repealed)

17-5-501. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 1, Ch. 477, L. 1975; amd. Sec. 3, Ch. 512, L. 1991.

17-5-502. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 2, Ch. 477, L. 1975; amd. Sec. 3, Ch. 512, L. 1991.

17-5-503. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 3, Ch. 477, L. 1975; amd. Sec. 12, Ch. 298, L. 1983.

17-5-504. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 4, Ch. 477, L. 1975.

17-5-505. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 5, Ch. 477, L. 1975.

17-5-506. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 6, Ch. 477, L. 1975; amd. Sec. 13, Ch. 298, L. 1983.

17-5-507. Repealed. Sec. 19, Ch. 10, L. 2009.
History: En. Sec. 7, Ch. 477, L. 1975; amd. Sec. 14, Ch. 298, L. 1983; amd. Sec. 24, Ch. 130, L. 2005; amd. Sec. 19, Ch. 44, L. 2007.

Part 6
Employment Security Building Bonds
(Repealed)

17-5-601. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 1, Ch. 418, L. 1971; R.C.M. 1947, 78-1011.

17-5-602. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 2, Ch. 418, L. 1971; R.C.M. 1947, 78-1012.

17-5-603. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 3, Ch. 418, L. 1971; R.C.M. 1947, 78-1013.

17-5-604. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 4, Ch. 418, L. 1971; R.C.M. 1947, 78-1014.

17-5-605. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 5, Ch. 418, L. 1971; R.C.M. 1947, 78-1015.

17-5-606. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 6, Ch. 418, L. 1971; R.C.M. 1947, 78-1016.

17-5-607. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 7, Ch. 418, L. 1971; R.C.M. 1947, 78-1017.

17-5-608. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 8, Ch. 418, L. 1971; amd. Sec. 1, Ch. 61, L. 1977; R.C.M. 1947, 78-1018; amd. Sec. 15, Ch. 298, L. 1983.

17-5-609. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 9, Ch. 418, L. 1971; amd. Sec. 2, Ch. 61, L. 1977; R.C.M. 1947, 78-1019; amd. Sec. 1, Ch. 418, L. 1985.

17-5-610. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 10, Ch. 418, L. 1971; R.C.M. 1947, 78-1020.

17-5-611. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 1, Ch. 419, L. 1971; R.C.M. 1947, 78-1021.

17-5-612. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 2, Ch. 419, L. 1971; R.C.M. 1947, 78-1022.

17-5-613. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 3, Ch. 419, L. 1971; R.C.M. 1947, 78-1023.

17-5-614. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 4, Ch. 419, L. 1971; R.C.M. 1947, 78-1024.

17-5-615. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 5, Ch. 419, L. 1971; R.C.M. 1947, 78-1025.

17-5-616. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 6, Ch. 419, L. 1971; R.C.M. 1947, 78-1026.

17-5-617. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 7, Ch. 419, L. 1971; R.C.M. 1947, 78-1027.

17-5-618. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 8, Ch. 419, L. 1971; amd. Sec. 3, Ch. 61, L. 1977; R.C.M. 1947, 78-1028; amd. Sec. 16, Ch. 298, L. 1983.

17-5-619. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 9, Ch. 419, L. 1971; amd. Sec. 4, Ch. 61, L. 1977; R.C.M. 1947, 78-1029; amd. Sec. 2, Ch. 418, L. 1985.

17-5-620. Repealed. Sec. 7, Ch. 374, L. 2005.
History: En. Sec. 10, Ch. 419, L. 1971; R.C.M. 1947, 78-1030.

Part 7
Coal Severance Tax Bonds — Water Development

Part Cross-References
Inalienable rights, Art. II, sec. 3, Mont. Const.
Protection and improvement of environment, Art. IX, sec. 1, Mont. Const.
Severance tax on coal — trust fund, Art. IX, sec. 5, Mont. Const.
Coal severance tax — general provisions, Title 15, ch. 35, part 1.
Water resources — administration, Title 85, ch. 1, part 2.
Renewable resource grant and loan program, Title 85, ch. 1, part 6.
Dams and reservoirs, Title 85, ch. 15.
Coal impacts — general provisions, Title 90, ch. 6, part 2.

17-5-701. State of Montana coal severance tax bonds. This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance renewable resource projects in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful environment for present and future generations; and

(2) finance loans to local governments for infrastructure projects under Title 90, chapter 6, part 7.

History: En. Sec. 24, Ch. 505, L. 1981; amd. Sec. 3, Ch. 3, Sp. L. January 1992; amd. Sec. 5, Ch. 478, L. 1993.

17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been approved by an act of the legislature for financing specific renewable resource projects in the state authorized by the legislature and to guarantee redemption of the bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and other money that the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include renewable resource projects as part of the program established in Title 85, chapter 1, part 6. The legislature further intends that the income from renewable resource projects in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the natural resources projects state special revenue account established in 15-38-302.

History: En. Sec. 25, Ch. 505, L. 1981; amd. Sec. 17, Ch. 298, L. 1983; amd. Sec. 6, Ch. 478, L. 1993; amd. Sec. 6, Ch. 432, L. 2007.

17-5-703. *(Temporary)* **Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a Montana coal endowment fund;

(c) a Montana coal endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund;

(f) a big sky economic development fund;

(g) a school facilities fund;

(h) a conservation district fund; and

(i) a coal board fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) through (6).

(3) (a) The state treasurer shall monthly transfer from the Montana coal endowment fund to the Montana coal endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the Montana coal endowment special revenue account must be retained in the Montana coal endowment fund.

(b) The state treasurer shall monthly transfer from the Montana coal endowment regional water system fund to the Montana coal endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the Montana coal endowment regional water system special revenue account must be retained in the Montana coal endowment regional water system fund.

(4) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 10% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is $300 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 10% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall annually transfer on May 15 or the Monday following from the school facilities fund to the account established in 20-9-516 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-516 must be retained in the school facilities fund.

(5) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the conservation district fund provided for in 76-15-108 65% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the conservation district fund is $100 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal board fund 65% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the coal board fund reaches $150 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the Montana coal endowment fund 65% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the conservation district fund to the account established in 76-15-106 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 76-15-106 must be retained in the conservation district fund.

(c) The state treasurer shall monthly transfer from the coal board fund to the account established in 90-6-1001(2) the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 90-6-1001(2) must be retained in the coal board fund.

(6) (a) From July 1, 2005, through June 30, 2035, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(7) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. *(Terminates June 30, 2031—secs. 1 through 3, Ch. 305, L. 2015.)*

17-5-703. *(Effective July 1, 2031)* **Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a Montana coal endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund;

(e) a big sky economic development fund;

(f) a school facilities fund;

(g) a conservation district fund; and

(h) a coal board fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) through (6).

(3) The state treasurer shall monthly transfer from the Montana coal endowment fund to the Montana coal endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the Montana coal endowment special revenue account must be retained in the Montana coal endowment fund.

(4) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 10% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is $300 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 10% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall annually transfer on May 15 or the Monday following from the school facilities fund to the account established in 20-9-516 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-516 must be retained in the school facilities fund.

(5) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the conservation district fund provided for in 76-15-108 65% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the conservation district fund is $100 million. Beginning with the quarter following this certification, the state treasurer shall

instead transfer to the coal board fund 65% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the coal board fund reaches $150 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the Montana coal endowment fund 65% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the conservation district fund to the account established in 76-15-106 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 76-15-106 must be retained in the conservation district fund.

(c) The state treasurer shall monthly transfer from the coal board fund to the account established in 90-6-1001(2) the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 90-6-1001(2) must be retained in the coal board fund.

(6) (a) From July 1, 2005, through June 30, 2035, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(7) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund.

History: **En. Sec. 26, Ch. 505, L. 1981; amd. Sec. 18, Ch. 298, L. 1983; amd. Sec. 2, Ch. 512, L. 1985; amd. Sec. 3, Ch. 722, L. 1991; amd. Secs. 3, 7, Ch. 12, Sp. L. January 1992; amd. Sec. 4, Ch. 515, L. 1993; amd. Sec. 1, Ch. 8, Sp. L. November 1993; amd. Sec. 1, Ch. 33, Sp. L. November 1993; amd. Secs. 1, 4, Ch. 495, L. 1999; amd. Sec. 3, Ch. 61, L. 2001; amd. Sec. 1, Ch. 380, L. 2001; amd. Sec. 42, Ch. 114, L. 2003; amd. Sec. 1, Ch. 588, L. 2005; amd. Sec. 1, Ch. 14, L. 2007; amd. Sec. 12, Ch. 389, L. 2011; amd. Sec. 2, Ch. 390, L. 2013; amd. Sec. 3, Ch. 259, L. 2017; amd. Sec. 2, Ch. 377, L. 2017; amd. Sec. 8, Ch. 6, Sp. L. November 2017; amd. Sec. 1, Ch. 330, L. 2021; amd. Sec. 1, Ch. 636, L. 2023; amd. Sec. 1, Ch. 717, L. 2023; amd. Sec. 1, Ch. 687, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 687, L. 2025. Amendment effective July 1, 2025.

Cross-References

Montana in-state investment, Title 17, ch. 6, part 3.

17-5-704. Investment of funds. Money in the coal severance tax bond fund, the coal severance tax permanent fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds. Income and earnings, excluding unrealized gains and losses, from all funds must be deposited in the state general fund.

History: **En. Sec. 27, Ch. 505, L. 1981; amd. Sec. 1, Ch. 149, L. 1983; amd. Sec. 19, Ch. 298, L. 1983; amd. Sec. 2, Ch. 662, L. 1987; amd. Sec. 23, Ch. 83, L. 1989; amd. Sec. 3, Ch. 634, L. 1989; amd. Sec. 92, Ch. 11, Sp. L. June 1989; amd. Sec. 4, Ch. 787, L. 1991; amd. Sec. 4, Ch. 12, Sp. L. January 1992; amd. Sec. 3, Ch. 442, L. 1995; amd. Sec. 22, Ch. 509, L. 1995; amd. Sec. 4, Ch. 61, L. 2001; amd. Sec. 2, Ch. 14, L. 2007.**

17-5-705. Pledge of coal severance tax bond fund. The money in the coal severance tax bond fund is pledged to the payment of the principal and interest on all state of Montana coal severance tax bonds. All bonds issued after July 1, 1981, wherein the money in the coal severance tax bond fund is pledged for their retirement shall be called "state of Montana coal severance tax bonds".

History: **En. Sec. 28, Ch. 505, L. 1981; amd. Sec. 20, Ch. 298, L. 1983.**

17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance approved renewable resource projects when authorized to do so by any law that sets

out the amount and purpose of the issue. Each project must be separately approved as to amount by a two-thirds vote of each house of the legislature.

History: En. Sec. 29, Ch. 505, L. 1981; amd. Sec. 7, Ch. 478, L. 1993.

Cross-References

Bond anticipation notes authorized, 17-5-731.

The Montana Unified Volume Cap Bond Allocation Plan Act, Title 17, ch. 5, part 13.

17-5-707. Board of examiners to issue bonds. The board of examiners may issue and sell coal severance tax bonds, and no other agency of the state is so authorized. Any action taken by the board of examiners under this part must be approved by a majority vote of its members.

History: En. Sec. 30, Ch. 505, L. 1981.

17-5-708. Special fund revenues. (1) If a law authorizing a coal severance tax bond issue for a specific purpose and in a specific amount contemplates the pledge and receipt of revenues, assets, or money other than or in addition to the money in the coal severance tax bond fund, then the money derived from such pledged revenues, assets, and money must be paid into a special bond fund for the benefit of such bonds, which must be part of a debt service fund of the state treasury fund structure.

(2) Money must be withdrawn from the coal severance tax bond fund and paid to the special bond fund as necessary to provide for payment of principal and interest on the coal severance tax bonds secured by a pledge of the special bond fund.

History: En. Sec. 31, Ch. 505, L. 1981; amd. Sec. 21, Ch. 298, L. 1983.

Cross-References

Fund structure, 17-2-102.

17-5-709. Continued tax deposit limit on additional bonds. (1) The legislature shall provide for the continued assessment, levy, collection, and deposit into the coal severance tax bond fund of the coal severance tax that, together with other revenue, assets, and money that may be deposited to one or more special bond funds pledged for the benefit of coal severance tax bonds, will be sufficient to produce an amount that is at least the amount necessary to pay, when due, the annual debt service charges on all outstanding coal severance tax bonds.

(2) The board of examiners may issue no coal severance tax bonds unless the aggregate amount of coal severance tax bonds outstanding, including the proposed issue and any other coal severance tax bonds authorized but not yet issued, can be serviced with no more than two-thirds of the annual deposits into the coal severance tax bond fund, as determined by the average of the deposits during the preceding 3 fiscal years, together with the average of the aggregate amount of revenue, assets, or money deposited in one or more special bond funds used to pay debt service on outstanding coal severance tax bonds during the preceding 3 fiscal years.

(3) The provisions of this section may not be modified so as to reduce the security for any coal severance tax bonds while the bonds are outstanding.

History: En. Sec. 32, Ch. 505, L. 1981; amd. Sec. 22, Ch. 298, L. 1983; amd. Sec. 5, Ch. 563, L. 1999; amd. Sec. 28, Ch. 7, L. 2001.

17-5-710. Form — principal and interest — fiscal agent — deposit of proceeds. (1) Subject to the limitations contained in this part, each series of coal severance tax bonds must be issued by the board of examiners at public or private sale. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, bearing interest at a rate or rates, maturing at times not exceeding 40 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board of examiners determines.

(2) In all other respects the board of examiners is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Coal severance tax bonds and any interest coupons appurtenant to the bonds must be signed by the members of the board of examiners, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all bonds issued and sold.

(4) The board of examiners may employ a fiscal agent to assist in the performance of its duties.

(5) All proceeds of a state of Montana coal severance tax bonds issue must be deposited in a capital projects fund or a state special revenue account established for that bond issue, except that:

(a) bond proceeds used to pay interest on the bonds and accrued interest received must be deposited in a debt service fund established for that bond issue;

(b) any premiums received may be deposited in a debt service fund established for that bond issue; and

(c) bond proceeds used to pay the cost of issuance may be deposited in a separate account within the state special revenue account.

History: En. Sec. 33, Ch. 505, L. 1981; amd. Sec. 23, Ch. 298, L. 1983; amd. Sec. 1, Ch. 74, L. 2015.

Cross-References

Facsimile signatures and seals, 2-16-114.
Fund structure, 17-2-102.

17-5-711. Trust indenture. In the discretion of the board of examiners, a series of bonds or notes issued under this part may be secured by a trust indenture by and between the board of examiners and a trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Each trust indenture or an executed counterpart thereof shall be filed in the office of the secretary of state of Montana. The filing of a trust indenture or an executed counterpart thereof in the office of the county clerk of the county in which the property covered by the trust indenture is located is constructive notice of its contents to all persons from the time of the filing, and the recording of the trust indenture or its contents is not necessary.

History: En. Sec. 34, Ch. 505, L. 1981; amd. Sec. 3, Ch. 512, L. 1985.

Cross-References

Duties of Secretary of State, 2-15-401.
Role and duties of County Clerk, 7-4-2611.
Procedure to record documents, 7-4-2617.
Trust company defined — purposes for which may be formed, 32-1-107.

17-5-712. Provisions for protecting bondholders. Either the legislative act providing for the issuance of coal severance tax bonds or the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable, proper, and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, and the departments, boards, or agencies of state government in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the projects financed with the proceeds of coal severance tax bonds and the custody, safeguarding, and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trusts, and mortgages securing bonds or debentures of corporations. No enumeration of particular powers granted by this section impairs any general grant of power contained in this part.

History: En. Sec. 35, Ch. 505, L. 1981.

17-5-713. Personal liability — suit to compel performance. (1) The members of the board of examiners and officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of or on any coal severance tax bond or bond anticipation note issued by the board of examiners.

(2) Any holder of coal severance tax bonds or any person or officer being a party in interest, subject to any applicable coal severance tax agreements or trust indentures, may sue to enforce and compel the performance of the coal severance tax bond provisions as set out in this part.

History: En. Sec. 36, Ch. 505, L. 1981; amd. Sec. 4, Ch. 512, L. 1985.

Cross-References

Bonds of state officers and employees, Title 2, ch. 9, part 6.
Bond anticipation notes authorized, 17-5-731.

17-5-714. Negotiability of bonds. Bonds or notes issued under this part are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of bonds.

History: En. Sec. 37, Ch. 505, L. 1981; amd. Sec. 5, Ch. 512, L. 1985.

Cross-References

U.C.C. — investment securities, Title 30, ch. 8.

17-5-715. Signatures of board members. If any member of the board of examiners whose signature appears on bonds, notes, or coupons issued under this part ceases to be a member before the delivery of the bonds or notes, the member's signature is valid and sufficient for all purposes, the same as if the member had remained in office until delivery.

History: En. Sec. 38, Ch. 505, L. 1981; amd. Sec. 6, Ch. 512, L. 1985; amd. Sec. 214, Ch. 56, L. 2009.

17-5-716. Refunding obligations. (1) The state board of examiners may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of this part that relate to the issuance of obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under this part. The proceeds may be applied to the purchase, redemption, or payment of outstanding obligations. Pending the application of the proceeds of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested as provided in Title 17, chapter 6.

History: En. Sec. 39, Ch. 505, L. 1981.

Cross-References

Crossover refunding bonds, Title 17, ch. 5, part 21.

17-5-717. Pledge of the state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of notes and bonds issued by the state.

History: En. Sec. 40, Ch. 505, L. 1981.

Cross-References

Ex post facto, obligation of contracts, and irrevocable privileges, Art. II, sec. 31, Mont. Const.

17-5-718. Tax exemption of bonds — legal investments. (1) All bonds or notes issued under this part, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes.

(2) Bonds or notes issued under this part are legal investments for any person or board charged with investment of public funds and are acceptable as security for any deposit of public money.

History: En. Sec. 41, Ch. 505, L. 1981; amd. Sec. 7, Ch. 512, L. 1985; amd. Sec. 9, Ch. 9, Sp. L. May 2000.

Cross-References

Investments, Title 17, ch. 6, part 2.

17-5-719. Limitation on amount of coal severance tax bonds issued. No more than $250 million worth of coal severance tax bonds may be issued for renewable resource development projects and activities.

History: En. Sec. 42, Ch. 505, L. 1981.

17-5-720. Authorization to issue revenue bonds. (1) In addition to the authority contained in 17-5-716, the board of examiners may issue revenue bonds of the state to refund in whole or in part bonds issued to finance renewable resource development projects approved by the legislature pursuant to Title 17, chapter 5, part 7, and Title 85, chapter 1, part 6. The principal and interest on refunding bonds issued pursuant to this section are payable solely from the project or projects for which the refunded bonds were issued.

(2) The revenue bonds may be issued in an amount sufficient to refund all or a portion of the outstanding bonds, to pay costs incident to the issuance and sale of the refunding bonds, and to fund the establishment of necessary reserves. The refunding bonds must be designated as "State of Montana Water Development Revenue Bonds". All the power and authority granted to the board of examiners and provisions with respect to the issuance of bonds under Title 17, chapter 5, part 7, except for the provision pledging the coal severance tax to the payment of the

bonds, apply to the issuance of the revenue bonds. In authorizing the issuance of the revenue bonds, the board of examiners shall determine that the refunding of the outstanding bonds and the issuance of the revenue bonds are in the best interest of the state.

(3) Revenue bonds may not be issued under this section to refund bonds issued to fund a loan to a political subdivision or local government body unless the political subdivision or local government body whose loan repayments would be pledged to the payment of the refunding bonds has consented to the refunding.

(4) Revenue bonds issued pursuant to this section without the pledge of the coal severance tax to the payment of the bonds are not coal severance tax bonds or a state debt.

History: En. Sec. 8, Ch. 775, L. 1991.

17-5-721. Authorization to issue revenue bonds. (1) In addition to the authority contained in 17-5-716, the board of examiners may issue revenue bonds of the state to refund, in whole or in part, bonds issued to finance renewable resource projects approved by the legislature pursuant to Title 17, chapter 5, part 7, and Title 85, chapter 1, part 6. The principal and interest on refunding bonds issued pursuant to this section are payable solely from the project or projects for which the refunded bonds were issued.

(2) The revenue bonds may be issued in an amount sufficient to refund all or a portion of the outstanding bonds, to pay costs incident to the issuance and sale of the refunding bonds, and to fund the establishment of necessary reserves. The refunding bonds must be designated as "State of Montana Water Development Revenue Bonds". All the power and authority granted to the board of examiners and provisions with respect to the issuance of bonds under Title 17, chapter 5, part 7, except for the provision pledging the coal severance tax to the payment of the bonds, apply to the issuance of the revenue bonds. In authorizing the issuance of the revenue bonds, the board of examiners shall determine that the refunding of the outstanding bonds and the issuance of the revenue bonds are in the best interests of the state.

(3) Revenue bonds may not be issued under this section to refund bonds issued to fund a loan to a political subdivision or local government body unless the political subdivision or local government body whose loan repayments would be pledged to the payment of the refunding bonds has consented to the refunding.

(4) Revenue bonds issued pursuant to this section without the pledge of the coal severance tax to the payment of the bonds are not coal severance tax bonds or a state debt.

History: En. Sec. 9, Ch. 497, L. 1993.

17-5-722 through 17-5-730 reserved.

17-5-731. Bond anticipation notes — when issued — payment of principal and interest. (1) When the board of examiners has been authorized by the legislature to issue and sell bonds under this part, it may, pending the issuance of the bonds, issue temporary notes in anticipation of the receipt of proceeds to be derived from the sale of the bonds. The notes are designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purposes for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued. As much of the proceeds of the bonds, when issued, must be credited to the note debt service fund as may be needed for payment of the notes, with interest, when due.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3 years after the date of issue may be issued from time to time as needed. Notes must be authorized by the board of examiners and contain such terms and details as may be provided by resolution of the board. Each resolution of the board of examiners authorizing notes must:

(a) describe the need for the proceeds of the notes to be issued; and

(b) specify:

(i) the principal amount of the notes or maximum principal amount of the notes that may be outstanding at any time;

(ii) the rate or rates of interest, the maximum rate of interest, or the interest rate formula (to be determined in the manner specified in the resolution authorizing the notes) of such notes; and

(iii) the maturity date or maximum maturity date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for notes to be issued and sold, in whole or in part, from time to time. The board may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and such other terms and details of the notes as may be considered appropriate by the board or, if there has been such a delegation, the state treasurer. The board may, in its discretion but subject to the limitations contained in this section, also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either within or outside of the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless the board revokes such authority to refund; and

(d) such other terms and conditions as the board may consider appropriate.

(4) In connection with the issuance and sale of notes, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on such lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing such terms and conditions as the board may authorize in the resolution approving them.

History: En. Sec. 8, Ch. 512, L. 1985.

Cross-References

Negotiability of bonds, 17-5-714.

Part 8
General Obligation Bonds and Notes

Part Cross-References

Long-range building program and budget, Title 17, ch. 7, part 2.

17-5-801. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of examiners provided for in 2-15-1007.

(2) "Bond act" means an act approved by the vote of two-thirds of the members of each house of the legislature or by a majority of the electors voting thereon, authorizing the issuance of bonds for the purpose set forth therein and adopting this part by reference.

(3) "Bonds" means general obligation bonds, notes, or other evidences of indebtedness issued in accordance with the provisions of this part.

(4) "Capital projects account" means a separate general obligation bond and note account created within the capital projects fund type established in 17-2-102.

(5) "Costs" includes those expenses related to acquiring land; planning, design, and construction of capital projects and of buildings as defined in 18-2-101; or any other administrative expenses of the department, including legal fees, incurred in the performance of its duties under Title 18, chapter 2.

(6) "Debt service account" means a separate general obligation bond and note account created within the debt service fund type established in 17-2-102.

(7) "Department" means the department of administration created in 2-15-1001.

(8) "Treasurer" means the ex officio state treasurer, referred to in 2-15-1002.

History: En. Sec. 1, Ch. 184, L. 1983; amd. Sec. 3, Ch. 372, L. 1985.

17-5-802. Authority to authorize and issue general obligation bonds and notes. (1) When authorized by and within the limits of a bond act and as provided in this part, the board may issue and sell bonds of the state in the manner that it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to this part, with all interest on the bonds and notes and premiums payable upon the redemption of the bonds and notes. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the state budget for that fiscal year, and sufficient revenue must be appropriated for the payment of principal, interest, and redemption premiums from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for the payment of principal, interest, and redemption premiums. Bonds may not be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) Except as provided in subsection (8), the legislature may not authorize general obligation bonds paid from the general fund if the issuance of those bonds would cause the total amount of the state debt to exceed 0.6% of the fair market value of all taxable property within the state.

(4) Except as provided in subsection (8), the legislature may not authorize new general obligation bonds paid from the general fund if the issuance of those bonds would create an obligation for fiscal year debt service on general obligation bonds paid from the general fund that have been issued that exceeds 1.5% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session.

(5) For purposes of subsections (3) and (4):

(a) "fair market value of all taxable property within the state" includes all real and personal property subject to ad valorem taxation within the state as enumerated in the department of revenue's biennial report issued pursuant to 15-1-205;

(b) "general obligation bonds paid from the general fund" means bonds issued as general obligation bonds of the state that are payable from only the general fund and that are not payable from or secured by funds or specific sources of revenue outside the general fund;

(c) "state debt" means:

(i) the outstanding principal of issued general obligation bonds paid from the general fund as of July 1 of the current fiscal year;

(ii) the principal amount of all authorized but unissued general obligation bonds paid from the general fund; and

(iii) the total amount of unfunded actuarial accrued liability of the public retirement systems established in Title 19 that does not amortize in 30 years as identified in those systems' most recent actuarial valuation of the assets and liabilities of their plans.

(6) For purposes of calculating the total fiscal year debt service of proposed bonds to determine whether the limitations described in subsection (4) are satisfied, the debt service amounts set forth in the fiscal note for the proposed bond act regarding the bonds are used and are final and conclusive.

(7) The passage and approval of a bond act is final and conclusive authority for the issuance of the bonds authorized under that act. The board of examiners may rely on that authority without regard to condition or circumstance existing as of the date of the issuance of the bonds.

(8) The limits on legislative authority to authorize general obligation bonds paid from the general fund do not apply to bonds authorized during a state of emergency or a state of disaster as provided in Title 10, chapter 3.

History: **En. Sec. 2, Ch. 184, L. 1983; amd. Sec. 3, Ch. 374, L. 2005; amd. Sec. 9, Ch. 469, L. 2019.**

Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.
Balanced budget, Art. VIII, sec. 9, Mont. Const.
Use of loan proceeds, Art. VIII, sec. 11, Mont. Const.

17-5-803. Form — principal and interest — fiscal agent — bond registrar and transfer agent — deposit of proceeds. (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and, for the issuance of temporary bonds, bearing

interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) Unless otherwise provided in statute authorizing a bond, all proceeds of bonds and notes issued under this part to pay the costs of a project must be deposited in the capital projects account or in a separate general obligation bond or note account created in the state special revenue fund established in 17-2-102, except that:

(a) bond proceeds used to pay interest on the bonds and accrued interest received must be deposited in the debt service account;

(b) any premiums received may be deposited in the debt service account; and

(c) bond proceeds used to pay the costs of issuance may be deposited in a separate account within the state special revenue account.

(6) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in 17-5-117.

History: En. Sec. 3, Ch. 184, L. 1983; amd. Sec. 4, Ch. 374, L. 2005; amd. Sec. 9, Ch. 342, L. 2009; amd. Sec. 4, Ch. 485, L. 2009; amd. Sec. 15, Ch. 489, L. 2009; amd. Sec. 2, Ch. 74, L. 2015.

Cross-References

Facsimile signatures and seals, 2-16-114.

Fund structure, 17-2-102.

17-5-804. Use of capital projects account. The capital projects account must be segregated by the treasurer from all other money in that or any other account in the state treasury and used only to pay costs of the projects for which bonds were issued, in accordance with the respective bond accounts. The department may transfer all money authorized by the legislature for its administrative expenditures from the capital projects account to a special revenue fund.

History: En. Sec. 4, Ch. 184, L. 1983; amd. Sec. 4, Ch. 372, L. 1985; amd. Sec. 18, Ch. 703, L. 1985; amd. Sec. 24, Ch. 422, L. 1997.

Cross-References

Fund structure, 17-2-102.

17-5-805. Bond, grant, or revenue anticipation notes — when issued — payment of principal and interest. (1) When the board has been authorized to issue and sell bonds under this part, it may, pending the issuance of the bonds, issue in the name of the state temporary notes in anticipation of:

(a) the money to be derived from the sale of the bonds;

(b) the money to be received from the federal government for the program for which bonds may be issued; or

(c) other money to be received as revenue for the specified program.

(2) The notes must be designated as "bond anticipation notes", "grant anticipation notes", or "revenue anticipation notes". The proceeds of the sale of the notes may be used only for the purposes for which the proceeds of the bonds, grants, or revenue could be used, including costs of issuance. If, prior to the issuance of the bonds or receipt of the proceeds of the grants or revenue, it becomes necessary to pay or redeem outstanding notes, additional notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds or receipt of the proceeds of the grants or revenue in anticipation of which the original notes were issued.

(3) Bond, grant, or revenue anticipation notes maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds are needed. The notes must be authorized by the board and must have terms and details that may be provided by resolution of the board. However, each resolution of the board authorizing notes must:

(a) describe the need for the proceeds of the notes to be issued; and

(b) specify:

(i) the principal amount of the notes or maximum principal amount of the notes that may be outstanding at any one time;

(ii) the rate or rates of interest, the maximum rate of interest, or the interest rate formula (to be determined in the manner specified in the resolution authorizing the notes) to be incurred through the issuance of the notes; and

(iii) the maturity date or maximum maturity date of the notes.

(4) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (3) to be issued and sold, in whole or in part, from time to time, and may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and other terms and details of the notes that may be considered appropriate by the board or the state treasurer in the event of a delegation. The board in its discretion, but subject to the limitations contained in this section, may also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either in or outside of the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless the board revokes the authority to refund; and

(d) such other terms and conditions that the board may consider appropriate.

(5) In connection with the issuance and sale of notes as provided in this section, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing terms and conditions that the board may authorize in the resolution approving them.

History: **En. Sec. 5, Ch. 184, L. 1983; amd. Secs. 1, 6, Ch. 323, L. 2005; amd. Sec. 5, Ch. 374, L. 2005.**

Cross-References

Issuance of notes in anticipation of revenue, 17-1-201.

17-5-806. Repealed. Sec. 3, Ch. 51, L. 1995.

History: **En. Sec. 6, Ch. 184, L. 1983.**

17-5-807. Limitations on general obligation bonds and bond anticipation notes. (1) Bonds and bond anticipation notes may not be issued for information technology acquisitions, including hardware or software, for a period longer than the estimated useful life of the asset.

(2) The chief information officer, as defined in 2-17-506, shall estimate the useful life of the asset for the proposed information technology purchase and provide this information for inclusion prior to the department determining the appropriate financing method, as described in 2-17-512(1)(g).

(3) Whenever the department determines that the purchase of information technology hardware or software must be expensed in accordance with state accounting policy, general obligation bonds may not be issued for the purchase.

History: **En. Sec. 2, Ch. 92, L. 2003.**

17-5-808 through 17-5-819 reserved.

17-5-820. Repealed. Sec. 26, Ch. 214, L. 2013.

History: **En. Sec. 5, Ch. 269, L. 1999; amd. Sec. 1, Ch. 6, Sp. L. May 2000; amd. Sec. 1, Ch. 589, L. 2001; amd. Sec. 1, Ch. 295, L. 2003; amd. Sec. 1, Ch. 590, L. 2005; amd. Sec. 1, Ch. 376, L. 2009; amd. Sec. 17, Ch. 394, L. 2009.**

Part 9
Highway Revenue Bonds

Part Cross-References
Highway revenue nondiversion, Art. VIII, sec. 8, Mont. Const.

17-5-901. Short title. This part may be cited as the "Montana Highway Revenue Bonds Act of 1983".

History: En. Sec. 1, Ch. 557, L. 1983.

17-5-902. Purpose. The purpose of this part is to provide for the financing of the cost of state highway and federal-aid highway projects through the issuance of highway revenue bonds secured by a pledge and appropriation of highway revenue.

History: En. Sec. 2, Ch. 557, L. 1983.

17-5-903. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of examiners created under 2-15-1007.

(2) "Bonds" means bonds, notes, or other evidences of indebtedness issued pursuant to this part as highway revenue bonds.

(3) "Cost", as applied to any highway project, means any cost of construction or acquisition of any part of the highway project, including but not limited to the cost of supervising, inspecting, and constructing the highway project, interest during construction and for up to 6 months thereafter, and all costs and expenses incidental thereto; the costs of locating, surveying, mapping, resurfacing, restoration, and rehabilitation; acquisition of rights-of-way; relocation assistance; elimination of hazards of railroad grade crossings; acquisition of replacement housing sites; and acquisition, rehabilitation, relocation, and construction of replacement housing; and improvements necessary to directly facilitate and control traffic flow, including grade separation of intersections, widening of lanes, channelization of traffic, and traffic control systems.

(4) "Department" means the department of transportation provided for in Title 2, chapter 15, part 25.

(5) "Highway projects" means the construction, reconstruction, maintenance, and repair of commission-designated highway systems and state highways as those terms are defined in 60-1-103.

(6) "Highway revenues" means the revenues specified in Article VIII, section 6, of the Montana constitution and 15-70-126 and 15-70-128 as revenues from gross vehicle weight fees and excise and license taxes (except general sales and use taxes, if any) on gasoline, fuel, and other energy sources used to propel vehicles on public highways and any other revenues, taxes, or receipts credited to the department in the state special revenue fund and the federal special revenue fund.

(7) "Outstanding bonds" means bonds issued and outstanding at any particular time but does not include bonds owned by the state, bonds that have been refunded, or bonds for the payment of which an irrevocable deposit of cash and United States government securities has been made in an amount sufficient to pay principal, interest, and redemption premium, if any, when due.

History: En. Sec. 3, Ch. 557, L. 1983; amd. Sec. 4, Ch. 249, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 12, Ch. 267, L. 2017; amd. Sec. 2, Ch. 299, L. 2019; amd. Sec. 5, Ch. 123, L. 2023.

17-5-904 through 17-5-910 reserved.

17-5-911. Highway revenue bond debt service account — deposit of bond proceeds. (1) There is in the debt service fund a highway revenue bond debt service account. The state treasurer shall deposit highway revenues that are pledged to the payment of particular bonds, to the credit of the highway revenue bond debt service account as required by resolution or indenture.

(2) All proceeds of an issue of bonds must be deposited in a separate account in the state special revenue fund, except that any premiums and accrued interest received may be deposited in a separate account in the debt service fund established for that bond issue by resolution or indenture. No more than the principal and interest on the bonds due in any year may be retained in the highway revenue bond debt service account for the payment of bonds. The remainder of pledged revenues is available for authorized purposes of the department. Money deposited in

the separate accounts in the state special revenue fund until spent for project purposes may be pledged and appropriated for the payment of bonds, which are a first lien and prior charge upon the funds, and the funds may be used for payment of bonds to the extent highway revenues deposited in the highway revenue bond debt service account are not sufficient for that purpose.

(3) Interest and investment earnings on the separate accounts named in subsections (1) and (2) must be retained in the separate accounts referred to in subsection (2).

History: En. Sec. 4, Ch. 557, L. 1983; amd. Sec. 4, Ch. 249, L. 1983; amd. Sec. 3, Ch. 20, Sp. L. June 1986; amd. Sec. 2, Ch. 10, L. 2009.

Cross-References

Fund structure, 17-2-102.

Interest income to general fund, 17-6-202.

17-5-912. Pledge of highway revenues. All or any portion of highway revenues may be pledged to the payment of the principal, interest, and redemption premium, if any, on particular issues of state highway revenue bonds, and the pledge is and remains at all times a first lien and prior charge upon the pledged highway revenues credited to the highway revenue bond debt service account, subject to the pledge of particular highway revenues to secure particular issues of highway revenue bonds.

History: En. Sec. 5, Ch. 557, L. 1983; amd. Sec. 4, Ch. 249, L. 1983; amd. Sec. 3, Ch. 10, L. 2009.

Cross-References

State funds, Title 60, ch. 3, part 2.

17-5-913. Authority to issue highway revenue bonds. The board may issue and sell highway revenue bonds to finance the cost of highway projects, to pay the costs of issuing the bonds, and to provide for reserves, upon recommendation of the department. The state reserves the right to issue additional bonds secured equally and ratably by the pledge and appropriation of the highway revenues or separately secured by a portion of highway revenues subject only to the pledge of particular highway revenues to secure particular bonds.

History: En. Sec. 6, Ch. 557, L. 1983.

Cross-References

Highways — legislative policy and intent, 60-1-102.

17-5-914. Continuation of taxes — limit on additional highway revenue bonds. The legislature shall provide for the continued assessment, levy, collection, and deposit of highway revenues into the state special revenue fund for the credit of the department in amounts sufficient to pay, when due, the annual debt service charges on all outstanding highway revenue bonds. The board is authorized to include a contractual undertaking for the benefit of bondholders to this effect in the resolution or indenture under which the bonds are issued.

History: En. Sec. 7, Ch. 557, L. 1983; amd. Sec. 4, Ch. 249, L. 1983.

Cross-References

State funds, Title 60, ch. 3, part 2.

17-5-915 through 17-5-920 reserved.

17-5-921. Bond anticipation notes — issued when — payment of principal and interest. (1) The board may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds, which notes are designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary or desirable to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds thereof are needed. Such notes must be authorized by the board and have such terms and provisions as may be provided by resolution of the board; however, each resolution of the board authorizing notes must:

(a) describe the need for the proceeds of the notes to be issued; and

(b) specify the principal amount of the notes or maximum principal amount of the notes which may be outstanding at any one time, the rate or rates of interest or maximum rate of

interest or interest rate formula (to be determined in the manner specified in the resolution authorizing the notes) of such notes, and the maturity date or maximum maturity date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be issued and sold, in whole or in part, from time to time, and may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and such other terms and details of the notes as may be considered appropriate by the board or, if there has been such a delegation, the state treasurer. The board may, in its discretion but subject to the limitations contained in this section, provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless and until the board revokes such authority to refund; and

(d) such other terms and conditions as the board may consider appropriate.

History: En. Sec. 8, Ch. 557, L. 1983.

Cross-References

Issuance of notes in anticipation of revenue, 17-1-201.

17-5-922. Form — principal and interest — fiscal agent — bonds authorized. (1) Each series of bonds may be issued by the board at public or private sale, in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for the conversion or exchange, bearing interest at the rate or rates or the method of determining the rate or rates, maturing at times, not more than 40 years from date of issue, subject to redemption at earlier times and prices and upon notice, and payable at the office of a fiscal agency of the state that the board shall determine, subject to the limitations contained in this part. Any action taken by the board under this part must be approved by at least a majority vote of its members.

(2) In all other respects the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons appurtenant to the bonds must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all bonds issued and sold.

(4) The board may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(5) In connection with the issuance and sale of bonds, the board may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to this part. Amounts drawn on lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing terms and conditions that the board may authorize in the resolution approving the notes or evidences of indebtedness.

(6) Not more than $150 million of bonds issued under this part may be outstanding at any time. Additional bonds, other than refunding bonds, may not be issued until the pledge in favor of the highway revenue bonds is satisfied and discharged.

(7) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in 17-5-117.

History: En. Sec. 9, Ch. 557, L. 1983; amd. Sec. 16, Ch. 489, L. 2009.

Cross-References

Facsimile signatures and seals, 2-16-114.

Rates of interest, Title 17, ch. 5, part 1.

Acceptance and issuance of drafts and letters of credit, 32-1-437.

17-5-923. Trust indenture. In the discretion of the board, bonds issued under this part may be secured by a trust indenture by and between the board and a trustee, which may be any trust company or bank having the powers of a trust company inside or outside of the state. Each trust indenture or an executed counterpart thereof must be filed in the office of the secretary of state. The filing of a trust indenture or an executed counterpart thereof in the office of the county clerk and recorder of the county in which the property covered by the trust indenture is located is constructive notice of its content to all persons from the time of filing, and the recording of the trust indenture or its content is not necessary.

History: En. Sec. 10, Ch. 557, L. 1983.

Cross-References

Filing of security interest, Title 30, ch. 9A, part 5.

Giving security for deposit prohibited — exceptions, 32-1-447.

17-5-924. Provisions for protecting bondholders. The resolution of the board providing for the issuance of bonds or the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable, proper, and not in violation of law, including covenants setting forth the duties of the state, the board, and the departments, boards, or agencies of state government in relation to the construction, reconstruction, improvement, maintenance, and repair of the highway projects financed with the proceeds of the bonds and the custody, safeguarding, and application of all money. The trust indenture may set forth the rights and remedies of the bondholders customary in trust indentures, deeds of trusts, and mortgages securing bonds or debentures of corporations. No enumeration of particular powers granted by this section impairs any general grant of power contained in this part.

History: En. Sec. 11, Ch. 557, L. 1983.

17-5-925. Personal liability — suit to compel performance. (1) The members of the board and officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of or on any bond issued by the board under this part.

(2) Any holder of bonds issued under this part or any person or officer who is a party in interest, subject to any applicable agreements or trust indentures, may sue to enforce and compel the performance of the bond provisions as set out in this part.

History: En. Sec. 12, Ch. 557, L. 1983.

Cross-References

State liability exposure, Title 2, ch. 9, part 1.

Bonds of state officers and employees, Title 2, ch. 9, part 6.

17-5-926. Negotiability of bonds. Bonds issued under this part are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of bonds.

History: En. Sec. 13, Ch. 557, L. 1983.

Cross-References

Negotiable instruments, Title 30, ch. 3.

17-5-927. Signatures of board members. If any member of the board whose signature appears on bonds or coupons issued under this part ceases to be a member before the delivery of the bonds, the member's signature is valid and sufficient for all purposes as if the member had remained in office until delivery.

History: En. Sec. 14, Ch. 557, L. 1983; amd. Sec. 215, Ch. 56, L. 2009.

17-5-928. Refunding obligations. (1) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of this part that relate to the issuance of the obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under this part. The proceeds may be applied to the purchase, redemption, or payment of the outstanding obligations. Pending the application of the proceeds

of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested as provided in Title 17, chapter 6.

History: En. Sec. 15, Ch. 557, L. 1983.

Cross-References

Refunding bonds, Title 17, ch. 5, part 3.
Crossover refunding bonds, Title 17, ch. 5, part 21.

17-5-929. Pledge of the state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of notes and bonds issued by the state under this part.

History: En. Sec. 16, Ch. 557, L. 1983.

Cross-References

Ex post facto, obligation of contracts, and irrevocable privileges, Art. II, sec. 31, Mont. Const.

17-5-930. Tax exemption of bonds — legal investments. (1) All bonds issued under this part, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes.

(2) Bonds issued under this part are legal investments for any person or board charged with investment of public funds and are acceptable as security for any deposit of public money.

History: En. Sec. 17, Ch. 557, L. 1983; amd. Sec. 10, Ch. 9, Sp. L. May 2000.

Cross-References

Investment in state bonds by county, 7-7-123, 7-7-124.
Classification of bonds for tax, 15-6-204.

Part 10
Actions

17-5-1001. Action to restrain bond issues. (1) No action may be brought for the purpose of restraining the issuance and sale of bonds or other obligations by the state of Montana or for the purpose of restraining the levy and collection of taxes for the payment of such bonds or other obligations after the expiration of 60 days from the date of the election on such bonds or obligations or, if no election was held thereon, after the expiration of 60 days from the date of the order, resolution, or ordinance authorizing the issuance thereof, on account of any defect, irregularity, or informality in giving notice of or in holding the election. No defense based upon any such defect, irregularity, or informality may be interposed in any action unless brought within this period.

(2) This section applies but is not limited to any action or defense in which the issue is raised whether a voted debt or liability has carried by the required majority vote of the electors qualified and offering to vote thereon.

History: En. Sec. 1, Ch. 114, L. 1919; re-en. Sec. 9040, R.C.M. 1921; re-en. Sec. 9040, R.C.M. 1935; R.C.M. 1947, 93-2612(part); amd. Sec. 4, Ch. 540, L. 1979.

Cross-References

Action to restrain bond issues — time for bringing, 7-7-105, 20-9-465.

Part 11
Public Obligations Registration

17-5-1101. Short title. This part may be cited as the "Model Public Obligations Registration Act of Montana".

History: En. Sec. 1, Ch. 364, L. 1983.

17-5-1102. Definitions. As used in this part, the following definitions apply:

(1) (a) "Authorized officer" means, with respect to any certificated public obligation:

(i) an individual whose signature to the certificated public obligation is required or permitted; or

(ii) an individual who may be permitted by an authorized officer, either alone or with the concurrence of another or others, to affix the individual's signature to the certificated public obligation and who is so permitted in writing by the authorized officer with any required concurrence.

(b) "Authorized officer" means, with respect to any uncertificated public obligation, any individual referred to in this subsection (1) as an authorized officer with respect to a certificated public obligation of the same class or series.

(2) "Certificated public obligation" means an obligation that is:

(a) issued pursuant to a system of registration;

(b) represented by an instrument; and

(c) either one of a class or series or by its terms is divisible into a class or series of obligations.

(3) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of the issuer, official, or official body.

(4) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

(5) "Financial intermediary" means a bank, broker, clearing corporation, or trust company or the nominee of any of them or other person or nominee that in the ordinary course of its business maintains public obligation accounts for its customers.

(6) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(7) "Issuer" means a public entity that:

(a) executes a certificated public obligation to evidence its duty to perform an obligation represented by the certificated public obligation;

(b) undertakes to perform an obligation that is an uncertificated public obligation; or

(c) becomes responsible for or in place of a public entity described as an issuer in this subsection (7).

(8) "Obligation" means an agreement of an issuer to pay principal and interest and includes a share, participation, or other interest in the agreement.

(9) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a public obligation.

(10) "Official or official body" means:

(a) the officer or body that is empowered under the laws of one or more states, including this state, to provide for original issuance of a public obligation of the issuer by defining the obligation and its terms, conditions, and other incidents;

(b) the successor or successors of the official or official body; and

(c) any other person or group of persons who are assigned duties of the official or official body under applicable law.

(11) "Original issuance" means the first transfer of a public obligation by an issuer to a purchaser.

(12) "Public entity" means any entity, department, or agency that is empowered under the laws of one or more states, including this state, to issue obligations, any interest with respect to which may under any provision of law be provided an exemption from the income tax referred to in the Internal Revenue Code. The term may include this state, a political subdivision, a municipal corporation, a state university or college, a school district or other special district, a joint agreement entity, a public authority, a public trust, a nonprofit corporation, or any other organization.

(13) "Public obligation" means either a certificated or an uncertificated public obligation.

(14) "System of registration" and its variants means a plan:

(a) with respect to a certificated public obligation, that provides that:

(i) the certificated public obligation specify a person entitled to the public obligation or the rights it represents; and

(ii) transfer of the certificated public obligation may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(b) with respect to an uncertificated public obligation, that provides that transfer of the uncertificated public obligation be registered upon books maintained for that purpose by or on behalf of the issuer.

(15) "Uncertificated public obligation" means an obligation that is:
(a) issued pursuant to a system of registration;
(b) not represented by an instrument; and
(c) either one of a class or series or by its terms divisible into a class or series of obligations.

History: En. Sec. 2, Ch. 364, L. 1983; amd. Sec. 43, Ch. 114, L. 2003.

17-5-1103. Declarations of state interest — purposes. (1) Sections 103 and 103A of the Internal Revenue Code, 26 U.S.C. 103 and 103A, provide that interest with respect to certain obligations may not be exempt from the income tax if they are not in registered form. It is therefore a matter of state concern that public entities be authorized to provide for the issuance of obligations in registered form. It is a purpose of this part to authorize all public entities to establish and maintain a system pursuant to which obligations may be issued in registered form within the meaning of sections 103 and 103A of the Internal Revenue Code, 26 U.S.C. 103 and 103A.

(2) Obligations have traditionally been issued in bearer rather than in registered form, and a change from bearer to registered form will significantly affect the relationships, rights, and duties of issuers of and the persons that deal with obligations and may consequently affect the costs. The effects will impact the various issuers and varieties of obligations differently, depending on their legal and financial characteristics, their markets, and their adaptability to recent and prospective technological and organizational developments. It is therefore a matter of state concern that public entities be provided flexibility in the development of systems of registration and control over system incidents, in order to accommodate differing impacts. It is a purpose of this part to provide for the establishment and maintenance, and amendment from time to time, of differing systems of registration of obligations, including system incidents, in order to accommodate the differing impacts upon issuers and varieties of obligations.

History: En. Sec. 3, Ch. 364, L. 1983; amd. Sec. 44, Ch. 114, L. 2003.

Cross-References

Classification of state bonds for tax, 15-6-204.
Registration of investment securities, Title 30, ch. 8, part 4.

17-5-1104. Construction. This part must be construed in conjunction with the Uniform Commercial Code and the principles of contract law relative to the registration and transfer of obligations.

History: En. Sec. 14, Ch. 364, L. 1983.

Cross-References

Transfer of obligation, Title 28, ch. 1, part 10.
U.C.C. — investment securities, Title 30, ch. 8.

17-5-1105. Applicability — election — rescission. (1) Public obligations may be issued as certificated or uncertificated public obligations as provided in this part, notwithstanding provisions of law providing for issuance in other forms. Whenever bonds are issued under this part, the provisions of this part are alternative and supplemental to such other provisions.

(2) Nothing in this part limits or prevents the issuance of obligations in any other form or manner authorized by law.

(3) The provisions of this part may be applied to obligations that have previously been approved by vote, referendum, or hearing, authorizing or permitting the authorization of obligations in bearer and registered form or in bearer form only, and such obligations need not be resubmitted for a further vote, referendum, or hearing for the purpose of authorizing or permitting the authorization of obligations in registered form only.

History: En. Sec. 13, Ch. 364, L. 1983.

17-5-1106. Records — no public inspection — locations. (1) With regard to the ownership or pledge of public obligations, records are not subject to inspection or copying under any law of this state relating to the right of the public to inspect or copy public records.

(2) Registration records of the issuer may be maintained at locations inside or outside this state determined by the issuer.

History: En. Sec. 12, Ch. 364, L. 1983.

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.
Public records, Title 2, ch. 6.
Right to examine and copy public records, 2-6-1003.

17-5-1107 through 17-5-1110 reserved.

17-5-1111. System of registration. (1) Each issuer is authorized to establish and regularly maintain a system of registration with respect to each public obligation that it issues. The system may be either a system pursuant to which only certificated public obligations are issued or a system pursuant to which both certificated and uncertificated public obligations are issued. The issuer may discontinue and reinstitute either system from time to time.

(2) The system must be established and regularly maintained or amended, discontinued, or reinstituted for the issuer by the official or official body.

(3) The system must be described in the official actions that provide for original issuance and in subsequent official actions providing for amendments and other matters from time to time. The description may be by reference to a program of the issuer that is established by the official or official body.

(4) The system must define the method or methods by which transfer of the public obligations is effective with respect to the issuer, which method or methods are exclusive (substantial compliance being essential to a valid transfer) and by which payment of principal and any interest must be made. The system may permit the issuance of public obligations in any denomination to represent several public obligations of smaller denominations. The system may also provide for the form of any certificated public obligations, for differing record and payment dates, for varying denominations, and for accounting, canceled certificate destruction, and other incidental matters.

(5) Under a system pursuant to which both certificated and uncertificated public obligations are issued, both types of public obligations may be regularly issued or one type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners. Under a system pursuant to which uncertificated public obligations are regularly issued, provisions may be made for registration of pledges and releases.

(6) The system may include covenants of the issuer as to amendments, discontinuances, and reinstitutions and the effect of those covenants on the exemption of interest from the income tax provided for by the Internal Revenue Code.

(7) If the effect of a conversion from one of the forms of public obligations provided for in this part to a form not provided for in this part is that interest will continue to be exempt from the income tax provided for by the Internal Revenue Code, this part does not preclude that conversion.

(8) To the extent not inconsistent with this part, the rights provided by other laws with respect to obligations in other forms must be provided with respect to obligations in forms that may be used under this part.

History: En. Sec. 4, Ch. 364, L. 1983; amd. Sec. 45, Ch. 114, L. 2003.

Cross-References

Registration of bonds, 7-7-4257.

Negotiable instruments — transfer and negotiation, Title 30, ch. 3, part 2.

Investment securities — registration, Title 30, ch. 8, part 4.

17-5-1112. Certificated public obligation — execution — authentication. (1) A certificated public obligation must be executed by the issuer by:

(a) the signing by an authorized officer with the manual signature of such officer; or

(b) the signing by such officer with a facsimile signature in lieu of the manual signature of such officer.

(2) Each certificated public obligation may, in addition to the signature or signatures of an authorized officer or officers, have placed upon it a certificate or certificates as authenticating trustee, registrar, transfer agent, or the like. Such certificate may be signed by the manual signature of an individual or by a facsimile signature in lieu of a manual signature, provided that at least one certificate is signed by a manual signature.

(3) The certificated public obligation must bear the manual signature of either:

(a) an authorized officer as defined in 17-5-1102; or

(b) a person described in subsection (2).

History: En. Sec. 5, Ch. 364, L. 1983.

Cross-References

Use of facsimile signatures on bonds, 2-16-114.

17-5-1113. Certificated public obligation — signatures. (1) No certificated public obligation signed by the authorized officers at the time of the signing is invalid or without binding effect even though before the issuance thereof any or all of such officers have ceased to fill their respective offices.

(2) Any authorized officer employed to sign any certificated public obligation may adopt as and for the signature of the officer the signature of a predecessor in office in the event that such predecessor's signature appears on such certificated public obligation.

History: En. Sec. 6, Ch. 364, L. 1983.

17-5-1114. Certificated public obligation — seal. When a seal is required or permitted in the execution of any certificated public obligation, an authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

History: En. Sec. 7, Ch. 364, L. 1983.

Cross-References

Seals, Title 1, ch. 4, part 2.

17-5-1115. Uncertificated public obligation — signed statements. The issuer shall provide, with respect to its uncertificated public obligations, for the sending of written statements that provide a record of certain rights as of the time of issuance of the statements. The statements must be sent to each person acquiring rights by registration in uncertificated public obligations, and the statements so sent must be signed by an authorized officer or by a person whose signature is required or permitted to be placed on a certificated public obligation of the same class or series. Statements, as such, confer no right on the recipient. Statements are neither a negotiable instrument nor a security.

History: En. Sec. 8, Ch. 364, L. 1983.

17-5-1116 through 17-5-1120 reserved.

17-5-1121. Agents — depositories. (1) An issuer may appoint for a term as may be agreed, including for so long as a public obligation may be outstanding, corporate or other authenticating trustees, transfer agents, registrars, or paying or other agents and specify their rights, compensation, and duties, limit their liabilities, and provide for their payment of liquidated damages in the event of breach of certain of the duties imposed, which liquidated damages may be made payable to a financial intermediary. No trustee, transfer agent, registrar, paying or other agent need have an office or do business within this state.

(2) An issuer may enter into agreements with custodian banks and financial intermediaries, and nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the transfer or pledge of public obligations. The custodian banks, financial intermediaries, and nominees may, if qualified and acting as fiduciaries, also serve as authenticating trustees, transfer agents, registrars, or paying or other agents of the issuer with respect to the same issue of public obligations.

History: En. Sec. 9, Ch. 364, L. 1983.

17-5-1122. Costs — collection. (1) An issuer, prior to or at original issuance, may provide as a part of a system of registration that the transferor or transferee of the public obligations pay all or a designated part of the costs of the system, that costs be paid out of the proceeds of the public obligations, or that both methods be used. The portion of the costs of the system not provided to be paid by the transferor or transferee or out of proceeds is the liability of the issuer.

(2) The issuer may as a part of the system provide for reimbursement or for satisfaction of its liability by payment by others. The issuer may enter into agreements with others respecting reimbursement or payment, may establish fees and charges pursuant to such agreements or otherwise, and may provide that the amount or estimated amount of the fees and charges must be reimbursed or paid from the same sources and by means of the same collection and enforcement procedures and with the same priority and effect as with respect to the obligation.

History: En. Sec. 10, Ch. 364, L. 1983.

17-5-1123. Deposits for security. Whenever under any law of this state a deposit of public obligations is authorized as security, public obligations otherwise meeting the authorized criteria may be deposited and must be accepted as security, provided that:

(1) in the case of a certificated public obligation, the instrument is assigned to the holder of the deposit; and

(2) in the case of an uncertificated public obligation, registration of a pledge is authorized by the system and the pledge of the uncertificated obligation is registered.

History: En. Sec. 11, Ch. 364, L. 1983.

Cross-References

State and local bonds and warrants as security for deposits of public funds, 17-6-103.

Part 12
Allocation of State and Local Private Activity Bonds (Repealed)

17-5-1201. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 1, Ch. 426, L. 1985.

17-5-1202. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 2, Ch. 426, L. 1985.

17-5-1203 through 17-5-1210 reserved.

17-5-1211. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 3, Ch. 426, L. 1985.

17-5-1212. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 4, Ch. 426, L. 1985.

17-5-1213. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 5, Ch. 426, L. 1985.

17-5-1214. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 6, Ch. 426, L. 1985.

17-5-1215. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 7, Ch. 426, L. 1985.

17-5-1216. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 8, Ch. 426, L. 1985.

17-5-1217. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 9, Ch. 426, L. 1985.

17-5-1218. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 10, Ch. 426, L. 1985.

17-5-1219. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 11, Ch. 426, L. 1985.

17-5-1220. Repealed. Sec. 15, Ch. 190, L. 1987.
History: En. Sec. 12, Ch. 426, L. 1985.

Part 13
Montana Unified Volume Cap Bond Allocation Plan Act

Part Cross-References

Board of Examiners, 2-15-1007.
Board of Investments, 2-15-1808.
Higher education student assistance, Title 20, ch. 26, part 11.
Financing of housing, Title 90, ch. 6, part 1.
Health facility development, Title 90, ch. 7.

17-5-1301. Short title. This part may be cited as "The Montana Unified Volume Cap Bond Allocation Plan Act".

History: En. Sec. 1, Ch. 190, L. 1987.

17-5-1302. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Allocation" means an allocation of a part of the state's volume cap to an issuer pursuant to this part.

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the volume cap is required to be allocated pursuant to the tax act.

(5) "Department" means the department of administration.

(6) "Governmental bonds" means bonds other than private activity bonds.

(7) "Issuer" means a state issuer or local issuer.

(8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

(9) "Local portion" means that portion of the state's volume cap reserved for local issuers.

(10) "Private activity bonds" (PABs) has the meaning prescribed under section 141 of the Internal Revenue Code, 26 U.S.C. 141.

(11) "State issuer" means the state and any agency, board, or authority of the state authorized to issue private activity bonds.

(12) "State portion" means that portion of the state's volume cap reserved for state issuers.

(13) "State's volume cap" means that amount of the volume cap specified by the department pursuant to 17-5-1311(2).

(14) "Tax act" means the latest limitation enacted by the United States congress on the amount of cap bonds that may be issued by a state or local issuer.

(15) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act.

History: En. Sec. 2, Ch. 190, L. 1987; amd. Sec. 1, Ch. 168, L. 1991; amd. Sec. 1, Ch. 32, L. 2001; amd. Sec. 2, Ch. 137, L. 2001; amd. Sec. 1, Ch. 341, L. 2009; amd. Sec. 2, Ch. 58, L. 2023.

17-5-1303 through 17-5-1310 reserved.

17-5-1311. State's volume cap and reservations — department to adopt rule. (1) For each calendar year, the state's volume cap is the amount specified by the department pursuant to subsection (2). In each calendar year, subject to the provisions established by 17-5-1312 and 17-5-1313, 70% of the state's volume cap is the state portion and 30% is the local portion.

(2) The department shall adopt a rule for the state's volume cap specifying the maximum dollar value of cap bonds that may be issued in a calendar year. The rule adopted by the department must consider the volume cap.

History: En. Sec. 3, Ch. 190, L. 1987; amd. Sec. 2, Ch. 32, L. 2001.

17-5-1312. Allocation to state issuers. (1) Except as provided in subsection (3), the state portion must be allocated to state issuers pursuant to 17-5-1316.

(2) As a condition of receiving an allocation, each state issuer:

(a) on issuance of the bonds, shall pay 35 cents per thousand of bonds to be deposited in the state general fund for the purpose of funding a portion of the annual comprehensive financial report audit; and

(b) shall provide the legislative auditor with full access to its financial records.

(3) Through the first Monday in September, allocations of the state portion must be made by the department to state issuers pursuant to 17-5-1316. After the first Monday in September, the state portion expires and any unallocated and unused state portion remaining must be allocated by the department as the state's volume cap to issuers pursuant to 17-5-1316 without preference.

History: En. Sec. 4, Ch. 190, L. 1987; amd. Sec. 2, Ch. 168, L. 1991; amd. Sec. 3, Ch. 32, L. 2001; amd. Sec. 3, Ch. 137, L. 2001; amd. Sec. 2, Ch. 341, L. 2009; amd. Sec. 3, Ch. 58, L. 2023.

17-5-1313. Allocation to local issuers. (1) The local portion must be allocated by the department pursuant to 17-5-1316, and through the first Monday in September, no local issuer is entitled to an allocation except from the local portion set-aside.

(2) No more than $40 million of the local portion may be allocated for a single project or purpose prior to the first Monday in September of each year.

(3) After the first Monday in September, the local portion expires and any unallocated and unused local portion remaining must be allocated by the department as the state's volume cap to issuers pursuant to 17-5-1316 without preference.

History: En. Sec. 5, Ch. 190, L. 1987; amd. Sec. 4, Ch. 58, L. 2023.

17-5-1314. Authorization by the governor. The governor may order an allocation different than that allocated by the department to state and local issuers pursuant to 17-5-1312 and 17-5-1313.

History: En. Sec. 6, Ch. 190, L. 1987.

17-5-1315. Carryforward elections. (1) Between the first Monday in December and the second Wednesday in December, each issuer shall file with the department an application for a carryforward election with respect to any unallocated portion of the state's volume cap for the calendar year.

(2) Applications for carryforward elections may be filed only with respect to carryforward purposes authorized by the tax act. Each application for a carryforward election must contain the information required of an application for allocation under 17-5-1316 and any additional information required by either the tax act or the department.

(3) If, as of the second Wednesday in December, the aggregate amount of applications for carryforward elections does not exceed the amount of the unallocated and unused state's volume cap, each application constitutes a valid carryforward election within the meaning of the tax act.

(4) If, as of the second Wednesday in December, the aggregate amount of applications for carryforward elections exceeds the unallocated and unused state's volume cap, the department shall determine which applications constitute a valid carryforward election within the meaning of the tax act.

(5) After receipt of an application, the department shall notify the applicant in writing of either the approval of the carryforward election or the reason for disapproval.

History: En. Sec. 7, Ch. 190, L. 1987; amd. Sec. 4, Ch. 32, L. 2001.

17-5-1316. Allocations by the department. (1) The department shall administer the allocation of the state's volume cap to issuers in accordance with 17-5-1312, 17-5-1313, and this section. Applications for an allocation for each issue of bonds must be made to the department in an acceptable form and, if applicable, must contain the following:

(a) the name of the issuer;

(b) a description of the purpose or purposes for which the proceeds of the cap bonds will be used, including, if appropriate, a description of the project or projects to be financed;

(c) the location of the project or projects;

(d) the name and address of each project owner and user;

(e) a certified copy of the inducement resolution adopted or official action taken by the issuer, pursuant to the tax act, approving the project or the purpose and granting preliminary authorization for the issuance of the cap bonds;

(f) the preliminary opinion of a qualified bond counsel stating that the proposed purpose for which the cap bonds are to be issued qualifies under applicable state law and the tax act and that the interest on the bonds is not taxable as gross income for purposes of federal income taxation;

(g) evidence that all public hearing requirements concerning the proposed purpose and project have been met;

(h) a copy of a letter from an underwriter, bank, or other financial institution certifying that in its opinion the proposed financing is feasible, that the cap bonds may be successfully sold under current market conditions, and that it has reviewed all of the information necessary to form its opinion;

(i) the amount of allocation requested; and

(j) any other information as the department considers necessary.

(2) The department shall issue allocations in chronological order of the receipt of completed applications. Completed applications received by the department on the same day must be ranked according to the earliest inducement resolution or official action date.

History: En. Sec. 8, Ch. 190, L. 1987; amd. Sec. 5, Ch. 32, L. 2001; amd. Sec. 5, Ch. 58, L. 2023.

17-5-1317. Notification of approval or disapproval by the department. After receipt of an application for an allocation, the department shall notify the applicant in writing of either the approval of the allocation or the reasons for disapproval.

History: En. Sec. 9, Ch. 190, L. 1987.

17-5-1318. Terms of allocations. (1) Unless terminated earlier by the issuer, an allocation is valid for 120 days from the date the department mails the notice of approval. Prior to the expiration of the 120-day period, the department may extend the period of validity for an additional 30 days on presentation of evidence that an agreement to purchase the cap bonds for which the allocation was given has been obtained from an entity legally authorized to purchase them.

(2) If the cap bonds are not issued within the period of validity as determined under subsection (1), the allocation automatically expires.

(3) All allocations expire on December 31 of the year in which they were made. However, this subsection does not limit the term of an allocation for which a valid carryforward election has been made.

History: En. Sec. 10, Ch. 190, L. 1987; amd. Sec. 6, Ch. 32, L. 2001; amd. Sec. 6, Ch. 58, L. 2023.

17-5-1319 and 17-5-1320 reserved.

17-5-1321. Allocations not transferable. Allocations may not be transferred between projects or purposes.

History: En. Sec. 11, Ch. 190, L. 1987.

17-5-1322. Reapplication. (1) If the department disapproves an application for an allocation or if an allocation expires under 17-5-1318, the issuer may reapply for an allocation.

(2) A reapplication must be reviewed according to the chronological order of its receipt. Priority or preference may not be given to a reapplication.

History: En. Sec. 12, Ch. 190, L. 1987.

17-5-1323. Recordkeeping. The department shall maintain complete records of all applications for allocations to ensure that the requirements of the tax act, with respect to the volume cap, and the requirements of the state's volume cap are observed.

History: En. Sec. 14, Ch. 190, L. 1987; amd. Sec. 7, Ch. 32, L. 2001.

17-5-1324 reserved.

17-5-1325. Reassignment of bonding authority for agricultural purposes — contingency. If, at some time in the future, federal taxation laws allow the use of tax-exempt bonds to provide loans for the acquisition of farm or ranch land, a downpayment on the acquisition of farm or ranch land, or the acquisition or construction of depreciable property used in the operation of a farm or ranch, the allocation of bonding authority originally assigned to the Montana agricultural loan authority must be reassigned to the Montana board of investments to provide those loans.

History: En. Sec. 3, Ch. 168, L. 1991.

Part 14 reserved

Part 15
Economic Development Bonds

17-5-1501. Short title. This part shall be known and may be cited as the "Montana Economic Development Bond Act of 1983".

History: En. Sec. 1, Ch. 701, L. 1983.

17-5-1502. Legislative declaration. (1) It is the policy of the state of Montana, in the interest of promoting the health, safety, and general welfare of all the people of the state, to increase job opportunities and to retain existing jobs by making available, through the board of investments, funds for industrial, commercial, manufacturing, natural resource, agricultural, livestock, recreational, tourist, and health care development.

(2) The legislature finds that:

(a) a vigorous, diversified, and growing economy is the basic source of job opportunities;

(b) protection against unemployment and its economic burdens and the spread of economic stagnation can best be provided by promoting, attracting, stimulating, and revitalizing a diversified economy with contributions from industry, manufacturing, commerce, natural resource development, agriculture, livestock, recreation, tourism, and health care facilities; and

(c) the state of Montana has a responsibility to help create a favorable climate for new and improved job opportunities and a stable, growing, and healthy economy for its citizens by encouraging the development of business.

History: **En. Sec. 2, Ch. 701, L. 1983; amd. Sec. 7, Ch. 581, L. 1987.**

Cross-References

Planning and economic development, Title 90, ch. 1, part 1.

17-5-1503. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of investments created in 2-15-1808.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this part.

(3) "Department" means the department of commerce provided for in 2-15-1801.

(4) "Finance" means to supply capital and, in the case of agricultural enterprises, to refinance a project and project costs.

(5) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board.

(6) "Local government" means the city in which the project is located, if the project is located within an incorporated municipality, or the county if the project is located within the county but outside the boundaries of an incorporated municipality.

(7) "Major project" means a project whose cost or appraised value exceeds $800,000.

(8) "Project" means a project as defined in 90-5-101.

(9) "Project costs" means the costs of acquiring or improving any project, including the following:

(a) the actual cost of acquiring or improving real estate for any project;

(b) the actual cost of construction of all or any part of a project, including architects' and engineers' fees;

(c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such acquisition or improvement;

(d) bond reserves and premiums for insurance or guaranty of loan payments or lease rentals pledged to pay the bonds;

(e) the interest on such bonds for a reasonable time prior to construction, during construction, and not exceeding 6 months after completion of construction; and

(f) working capital for agricultural enterprise projects for a period not to exceed 1 year.

History: **En. Sec. 1, Ch. 686, and Sec. 3, Ch. 701, L. 1983; amd. Sec. 1, Ch. 94, L. 1987; amd. Sec. 8, Ch. 581, L. 1987; amd. Sec. 1, Ch. 684, L. 1989.**

17-5-1504. Powers of the board. The board may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this part;

(4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under this part;

(5) invest any funds not required for immediate use, as the board considers appropriate, subject to any agreements with its bondholders and noteholders;

(6) arrange for lines of credit from and enter into participation agreements with any financial institution;

(7) issue bonds for the purpose of defraying the cost of acquiring or improving any project or projects and securing the payment of the bonds as provided in this part;

(8) enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this part;

(9) sell, purchase, or insure loans to finance the costs of projects;

(10) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them in carrying out this part;

(11) enter into agreements or other transactions with a federal agency, an agency or instrumentality of the state, a municipality, a private organization, or any other entity or organization in carrying out this part;

(12) with regard to property:

(a) acquire real or personal property or any right, interest, or easement therein by gift, purchase, transfer, foreclosure, lease, or otherwise;

(b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of such property;

(c) hold, sell, assign, or otherwise dispose of any lease, mortgage, or loan owned by it or in its control or custody;

(d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any equity or right of redemption;

(e) make any disposition by public or private sale, with or without public bidding;

(f) commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement;

(g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure;

(h) operate, manage, lease, dispose of, and otherwise deal with such property in any manner necessary or desirable to protect its interests or the holders of its bonds or notes, provided such action is consistent with any agreement with such holders;

(13) service, contract, and pay for the servicing of loans;

(14) provide financial analysis and technical assistance where considered appropriate;

(15) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the modification of the rate of interest, time, and payment of any installment of principal, interest, security, or any other term of any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and noteholders;

(16) collect reasonable interest, fees, and charges in connection with making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(17) procure insurance or guaranties in amounts and in the form the board considers desirable or necessary, from any party, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property; and

(18) perform any other acts necessary and convenient to carry out the purposes of the board and this part.

History: En. Sec. 2, Ch. 686, and Sec. 4, Ch. 701, L. 1983.

Cross-References

Exemption from loan limits, 32-1-432.

General duties of boards, 37-1-131.

Industrial development projects, Title 90, ch. 5, part 1.

17-5-1505. Financing programs of the board. (1) The board may:

(a) invest in, purchase or make commitments to purchase, and take assignment from financial institutions of notes, mortgages, loan agreements, and other securities evidencing loans for the acquisition, construction, reconstruction, or improvement of projects located in the state, under terms and conditions determined by the board;

(b) acquire, by construction, purchase, devise, gift, lease, or any combination of methods, from financial institutions, projects located in the state and lease such projects to others for such rentals and upon such terms and conditions as determined by the board;

(c) make loans to financial institutions, under terms and conditions determined by the board, requiring the proceeds to be used by the financial institution for the purpose of financing the acquisition, construction, reconstruction, or improvement of projects located in the state; or

(d) finance projects located in the state upon such terms and conditions as determined by the board.

(2) The board may not operate any project as a business or in any other manner except as the lessor thereof or as may be necessary for a temporary period through the enforcement of its rights under a lease, loan agreement, or other security agreement.

History: En. Sec. 3, Ch. 686, and Sec. 5, Ch. 701, L. 1983; amd. Sec. 1, Ch. 640, L. 1985.

Cross-References

The Montana Unified Volume Cap Bond Allocation Plan Act, Title 17, ch. 5, part 13.
State investments, Title 17, ch. 6, part 2.
Investments of financial institutions, 32-1-424.
Exemption from loan limits, 32-1-432.

17-5-1506. Bonds and notes for projects and major projects. (1) The board may by resolution issue negotiable notes and bonds in a principal amount that the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 17-5-1515, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time, issue notes to renew notes and bonds or to pay notes, including interest, and whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured, or issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) Except as otherwise expressly provided by resolution of the board, every issue of its bonds is an obligation of the board payable out of any revenue, assets, or money of the board, subject only to agreements with the holders of particular notes or bonds pledging particular revenue, assets, or money.

(4) The notes and bonds must be authorized by resolutions of the board, bear a date, and mature at the times the resolutions provide. A note may not mature more than 5 years from the date of its issue. A bond may not mature more than 40 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments, as term bonds, or as a combination of serial and term bonds. The notes and bonds must bear interest at a stated rate or rates or at a rate or rate determination as stated, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places inside or outside the state, and be subject to terms of redemption as provided in resolutions. The notes and bonds of the board may be sold at public or private sale, at prices above or below par, as determined by the board, and in a manner that interest on the bonds is either exempt from or subject to federal income tax. If applicable, the board shall specify whether the bonds are tax credit bonds as provided in 17-5-117.

(5) The bonds issued under this part are exempt from the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with the state securities commissioner for public inspection.

(6) The total amount of bonds secured under 17-5-1515 outstanding at any one time, except bonds as to which the board's obligations have been satisfied and discharged by refunding or bonds for which reserves for payment or other means of payment have been provided, may not exceed $100 million.

History: En. Sec. 4, Ch. 686, and Sec. 6, Ch. 701, L. 1983; amd. Sec. 2, Ch. 640, L. 1985; amd. Sec. 1, Ch. 589, L. 1991; amd. Sec. 2, Ch. 609, L. 2003; amd. Sec. 17, Ch. 489, L. 2009.

Cross-References

Limited obligation bonds — form and contents — sale — negotiability — filing, 90-5-103.

17-5-1507. Bond anticipation notes — issuance — payment of principal and interest. (1) The board may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds. The notes shall be designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds thereof are needed. The notes must be authorized by the board and must have such terms and details as may be provided by resolution of the board. However, each resolution of the board authorizing notes must:

(a) describe the need for the proceeds of the notes to be issued; and

(b) specify the principal amount of the notes or maximum principal amount of the notes which may be outstanding at any one time, the rate or rates of interest or maximum rate of interest or interest rate formula (to be determined in the manner specified in the resolution authorizing the notes to be incurred through the issuance of such notes), and the maturity date or maximum maturity date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be issued and sold, in whole or in part, from time to time. The board may delegate to the administrator of the board the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and such other terms and details of the notes as considered appropriate by the board or the administrator in the event of such delegation. The board in its discretion but subject to the limitations contained in this section may also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either inside or outside the state of Montana, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes from time to time, without further action by the board, unless and until the board revokes such authority to refund; and

(d) such other terms and conditions as the board considers appropriate.

(4) In connection with the issuance and sale of notes as provided in this section, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on such lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing such terms and conditions as the board may authorize in the resolution approving the same.

History: **En. Sec. 5, Ch. 686, and Sec. 7, Ch. 701, L. 1983.**

Cross-References

Issuance of notes in anticipation of revenue, 17-1-201.

17-5-1508. Provisions of bond resolutions. A resolution authorizing notes or bonds or any issue thereof may contain provisions, which must be a part of the contract or contracts with the holders thereof, as to:

(1) pledging all or any part of the revenue or property of the board to secure the payment of the notes or bonds or of any issue thereof, subject to existing agreements with noteholders or bondholders;

(2) pledging all or any part of the assets of the board, including lease agreements, loan agreements, mortgages, and obligations securing them, to secure the payment of the notes or bonds or of any issue thereof, subject to existing agreements with noteholders or bondholders;

(3) the use and disposition of the gross income from lease agreements, loan agreements, and mortgages owned by the board, and the payment of the principal of mortgages owned by the board;

(4) the setting aside of reserves for debt service funds in the hands of trustees, paying agents, and other depositories and the regulation and disposition thereof;

(5) limitations on the purpose for which the proceeds of the sale of notes or bonds may be applied and the pledge of the proceeds to secure the payment of the bonds or of any issue thereof;

(6) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding notes or bonds;

(7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which shall consent thereto, and the manner in which such consent may be given;

(8) a commitment to employ adequate and competent personnel at reasonable compensation; to set salaries, fees, and charges as may be determined by the board in conjunction with the department; and to maintain suitable facilities and services for the purpose of carrying out its programs;

(9) vesting in a trustee such property, rights, powers, and duties in trust as the authority determines to be necessary;

(10) defining the acts or omissions that shall constitute a default in the obligations and duties of the board to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; and

(11) any other matters of like or different character that in any way affect the security or protection of the holders of the notes or bonds.

History: En. Sec. 6, Ch. 686, and Sec. 8, Ch. 701, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

Cross-References

Provisions for security of bondholders, 90-5-105.

17-5-1509. Personal liability. The board and employees of the department are not personally liable or accountable by reason of the issuance of or on any bond or note issued by the board.

History: En. Sec. 7, Ch. 686, and Sec. 9, Ch. 701, L. 1983.

Cross-References

Government liability exposure and insurance coverage, Title 2, ch. 9.

17-5-1510. Purchase of notes and bonds — cancellation. The board may, subject to existing agreements with noteholders or bondholders and out of any funds available for that purpose, purchase notes or bonds of the board, which shall then be canceled, at a price not exceeding:

(1) the current redemption price plus accrued interest to the next interest payment if the notes or bonds are then redeemable; or

(2) the redemption price applicable on the first date after the purchase on which the notes or bonds become subject to redemption, plus accrued interest to that date, if the notes or bonds are not then redeemable.

History: En. Sec. 8, Ch. 686, and Sec. 10, Ch. 701, L. 1983.

17-5-1511. Trust indenture. (1) In the discretion of the board, the bonds may be secured by a trust indenture between the board and a corporate trustee, which may be a trust company or bank having the power of a trust company, either inside or outside the state. A trust indenture may contain provisions for protecting and enforcing bondholders' rights and remedies that are reasonable, proper, and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The authority may provide by a trust indenture for the payment of the proceeds of the bonds and revenues to the trustee under the trust indenture of another depository and for the method of disbursement, with the safeguards and restrictions it considers necessary.

(2) All expenditures incurred in carrying out a trust indenture may be treated as part of the operating expenses of the board.

History: En. Sec. 9, Ch. 686, and Sec. 11, Ch. 701, L. 1983.

17-5-1512. Negotiability of bonds. Notes and bonds issued by the board are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of notes and bonds.

History: En. Sec. 10, Ch. 686, and Sec. 12, Ch. 701, L. 1983.

Cross-References

Form of negotiable instruments, 30-3-104.

17-5-1513. Signatures of board members. If board members whose signatures appear on notes, bonds, or coupons cease to be members before the delivery of the notes or bonds, their

signatures shall nevertheless be valid and sufficient for all purposes the same as if the members had remained in office until delivery.

History: En. Sec. 11, Ch. 686, and Sec. 13, Ch. 701, L. 1983.

17-5-1514. Accounts. The board may create funds and accounts necessary to implement this part. The funds and accounts may include:

(1) a fund into which bond proceeds are deposited;

(2) a common bond fund consisting of:

(a) a common debt service account;

(b) a capital reserve account as provided in 17-5-1515; and

(c) an operating account for defraying the operational costs of the board; and

(3) other funds or accounts.

History: En. Sec. 12, Ch. 686, and Sec. 14, Ch. 701, L. 1983; amd Sec. 48, Ch. 281, L. 1983.

Cross-References

Fund structure, 17-2-102.

17-5-1515. Reserve funds and appropriations. (1) The board may establish a capital reserve account and pay into it any:

(a) funds appropriated and made available by the state for the purpose of the account;

(b) proceeds of the sale of notes or bonds to the extent provided in the resolutions or indentures of the board authorizing their issuance; and

(c) other funds which may be available to the board from any other source for the purpose of the account.

(2) All funds held in the capital reserve account must be used solely for the payment of the principal of or interest on the bonds secured in whole or in part by the account or the debt service fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account may not be withdrawn at any time in an amount that reduces the account to an amount less than the sum of minimum capital reserve requirements established in the resolutions or indentures of the board for the account except, with respect to bonds secured in whole or in part by the account, for the purpose of making payment, when due, of principal, interest, redemption premiums, and debt service fund payments for the payment of which other money pledged is not available. Any income or interest earned by or incremental to the capital reserve account due to its investment may be transferred to other accounts of the board to an extent that does not reduce the amount of the capital reserve account below the sum of minimum capital reserve requirements for the account.

History: En. Sec. 13, Ch. 686, and Sec. 15, Ch. 701, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

17-5-1516. Maintenance of capital reserve account. (1) In order to ensure the maintenance of the capital reserve account, the presiding officer of the board shall, on or before September 1 in each year preceding the convening of the legislature, deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the minimum capital reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the sum of minimum capital reserve requirement. All sums appropriated by the legislature must be deposited in the capital reserve account.

(2) All amounts appropriated to the board under this section constitute advances to the board and, subject to the rights of the holders of any bonds or notes of the board, must be repaid to the state general fund without interest from available operating revenue of the board in excess of amounts required for the payment of bonds, notes, or other obligations of the board, for maintenance of the capital reserve account, and for operating expenses.

History: En. Sec. 14, Ch. 686, and Sec. 16, Ch. 701, L. 1983; amd. Sec. 216, Ch. 56, L. 2009.

17-5-1517. Refunding obligations. The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the authority are governed by the appropriate provisions of this part that relate to the issuance

of obligations. The proceeds of refunding obligations may be applied to the purchase, redemption, or payment of outstanding obligations. Pending the application of the proceeds of refunding obligations and other available funds to the payment of principal, accrued interests, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested in such securities as the board considers appropriate.

History: En. Sec. 15, Ch. 686, and Sec. 17, Ch. 701, L. 1983.

Cross-References

Crossover refunding bonds, Title 17, ch. 5, part 21.
Refunding of bonds, 90-5-107.

17-5-1518. Tax exemption of bonds. Bonds, notes, or other obligations issued by the board under this part and their transfer and income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes. The board is not required to pay recording or transfer fees or taxes on instruments recorded by it.

History: En. Sec. 16, Ch. 686, and Sec. 18, Ch. 701, L. 1983; amd. Sec. 11, Ch. 9, Sp. L. May 2000.

Cross-References

Classification of state bonds for tax, 15-6-204.

17-5-1519. Repealed. Sec. 19, Ch. 589, L. 1991.

History: En. Sec. 17, Ch. 686, and Sec. 19, Ch. 701, L. 1983.

17-5-1520. Repealed. Sec. 19, Ch. 589, L. 1991.

History: En. Sec. 18, Ch. 686, and Sec. 20, Ch. 701, L. 1983.

17-5-1521. Adoption of rules. (1) The board shall adopt rules to establish:

(a) procedures for soliciting and evaluating applications and for notifying the local government of the application for purposes of complying with 17-5-1526 and 17-5-1527; and

(b) a system for evaluating applications, considering the following criteria:

(i) the applicant's net worth;

(ii) the applicant's training and experience in the industry involved in the proposed project;

(iii) the applicant's prospects for succeeding in the proposed project;

(iv) the degree to which the new or increased business resulting from the loan will meet the objectives of 17-5-1502; and

(v) any other factors the board may prescribe.

(2) The board shall adopt rules for the:

(a) organization, approval, standards, and regulation of project applicants;

(b) approval, standards, and regulation of financial institutions under this part;

(c) assessment, collection, and payment of all fees and charges in connection with making, purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and guaranty programs; and

(d) such other matters as the board considers necessary or desirable.

History: En. Sec. 19, Ch. 686, and Sec. 21, Ch. 701, L. 1983.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

17-5-1522. Pledge of the state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the board and the holders of notes and bonds issued by the board, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose.

History: En. Sec. 20, Ch. 686, and Sec. 22, Ch. 701, L. 1983.

Cross-References

Ex post facto, obligation of contracts, and irrevocable privileges, Art. II, sec. 31, Mont. Const.

17-5-1523. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a debt, liability, obligation, or pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board. An obligation issued under this part must contain on the face thereof a statement to the effect that the state of Montana is not

liable on the obligation, the obligation is not a debt of the state, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal or interest on the obligation.

History: En. Sec. 21, Ch. 686, and Sec. 23, Ch. 701, L. 1983.

Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.

17-5-1524. Taxation of projects. (1) Notwithstanding the fact that title to a project may be in the board, such projects are subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in that year. Such projects are not subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in that year.

(2) When personal property owned by the board is taxed under this section and such personal property taxes are delinquent, levy by warrant for distraint for collection of such delinquent taxes may be made only on personal property against which such taxes were levied.

History: En. Sec. 22, Ch. 686, and Sec. 24, Ch. 701, L. 1983.

Cross-References

Industrial development revenue bonds — taxation of projects, 90-5-110.

17-5-1525. Bonds as legal investment. (1) Bonds issued by the board under the provisions of this part are securities in which all funds may be legally and properly invested, including capital in the control of or belonging to:

(a) public officers and public bodies of the state and its political subdivisions;

(b) insurance companies;

(c) credit unions, building and loan associations, investment companies, savings banks, banking associations, and trust companies;

(d) executors, administrators, trustees, and other fiduciaries; and

(e) pension, profit-sharing, and retirement funds.

(2) Bonds issued under 17-5-1505 through 17-5-1518 and 17-5-1521 through 17-5-1529 are securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or municipality of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

History: En. Sec. 23, Ch. 686, and Sec. 25, Ch. 701, L. 1983; amd. Sec. 2, Ch. 589, L. 1991.

Cross-References

Permissible investments, 17-6-211.
Investments of financial institutions, 32-1-424.
Investment of credit union funds, 32-3-701.
Powers of trustees, Title 72, ch. 38, part 8.

17-5-1526. Procedure prior to financing projects. (1) The board may finance projects, other than major projects, under this part only when it finds that:

(a) the financing is in the public interest and is consistent with the legislative purposes and findings set forth in 17-5-1502;

(b) the financing to be provided by the board for a project does not exceed either $800,000 or 90% of the cost or appraised value of the project, whichever is less;

(c) a financial institution will participate in financing the project, either directly or through a letter of credit, to the extent of at least 10% of the financing to be provided by the board;

(d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental insurer or guarantor;

(e) an applicant has submitted a statement indicating any contracts to construct the projects will require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. "Substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

(f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a project or projects being financed to provide for payment of debt service on bonds of the board issued to finance the project or projects, to create and maintain reserves for payment of the debt service, and to meet all costs and expenses of issuing and servicing the bonds; and

(g) an applicant has submitted a statement that indicates that any contract let for a project costing more than $25,000 and financed from the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision that requires the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified; and the city and county shall, within 14 days after receipt of the notice, notify the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received, the board may hold the hearing at a time and place it prescribes.

(3) If the hearing required by subsection (2) is conducted by a local government, the governing body of the local government shall notify the board of its determination of whether the project is in the public interest within 14 days of the completion of the public hearing.

(4) When a hearing is required either locally or at the state level, notice must be given, at least once a week for 2 weeks prior to the date set for the hearing, by publication in a newspaper of general circulation in the city or county where the hearing will be held. The notice must include the time and place of the hearing; the general nature of the project; the name of the lessee, borrower, or user of the project; and the estimated cost of the project.

(5) The requirements of subsections (1)(b) through (1)(d) do not apply to bonds that are not secured by the capital reserve account authorized by 17-5-1515.

(6) The hearing requirements of subsections (2) through (4) do not apply to projects financed with bonds the interest on which is subject to federal income taxes.

History: **En. Sec. 26, Ch. 701, L. 1983; amd. Sec. 1, Ch. 296, L. 1985; amd. Sec. 1, Ch. 653, L. 1985; amd. Sec. 1, Ch. 273, L. 1987; amd. Sec. 5, Ch. 561, L. 1987; amd. Sec. 3, Ch. 589, L. 1991; amd. Sec. 1, Ch. 464, L. 1993.**

Cross-References

Notice and opportunity to be heard, Title 2, ch. 3, part 1.

17-5-1527. Procedure prior to financing major projects. (1) The board may finance major projects under this part only when it finds that:

(a) the financing is in the public interest and is consistent with legislative purposes and findings;

(b) the financing to be provided by the board for a project does not exceed either $50 million or 90% of the cost or appraised value of the project, whichever is less;

(c) a financial institution will participate in financing the project if the cost or appraised value is less than $1 million, either directly or through a letter of credit, to the extent of at least 10% of the financing to be provided by the board, provided, however, that participation by a financial institution in projects of over $1 million is at the discretion of the board;

(d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental insurer or guarantor;

(e) any contracts to construct the projects require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. "Substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

(f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a project or projects being financed to provide for payment of debt service on bonds of the board issued to finance the project or projects, to create and maintain reserves for payment of the debt service, and to meet all costs and expenses of issuing and servicing the bonds; and

(g) an applicant has submitted a statement that indicates that any contract let for a project costing more than $25,000 and financed from the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision that requires the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and within 14 days shall advise the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received, the board may hold the hearing at a time and place it prescribes.

(3) If the hearing required by subsection (2) is conducted by a local government, the governing body of the local government shall notify the board of its determination of whether the project is in the public interest within 14 days of the completion of the public hearing.

(4) When a hearing is required either locally or at the state level, notice must be given, at least once a week for 2 weeks prior to the date set for the hearing, by publication in a newspaper of general circulation in the city or county where the hearing will be held. The notice must include the time and place of the hearing; the general nature of the project; the name of the lessee, borrower, or user of the project; and the estimated cost of the project.

(5) The requirements of subsections (1)(b) through (1)(d) do not apply to bonds that are not secured by the capital reserve account authorized by 17-5-1515.

(6) The hearing requirements of subsections (2) through (4) do not apply to major projects financed with bonds the interest on which is subject to federal income taxes.

(7) The board is encouraged to consider applications for project financing related to infrastructure and facilities necessary for the development of the state-owned coal assets.

History: En. Sec. 24, Ch. 686, L. 1983; amd. Sec. 2, Ch. 296, L. 1985; amd. Sec. 2, Ch. 653, L. 1985; amd. Sec. 2, Ch. 273, L. 1987; amd. Sec. 6, Ch. 561, L. 1987; amd. Sec. 4, Ch. 589, L. 1991; amd. Sec. 2, Ch. 464, L. 1993; amd. Sec. 3, Ch. 609, L. 2003.

17-5-1528. Validity of pledge. Any pledge made by the board is valid and binding from the time the pledge is made. Revenue, money, or property pledged and received by the board is immediately subject to the lien of the pledge without any physical delivery or further act. The lien of any pledge is valid and binding against all parties having claims of any kind, whether in tort, contract, or otherwise, against the board, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created is required to be recorded.

History: En. Sec. 25, Ch. 686, and Sec. 27, Ch. 701, L. 1983.

17-5-1529. Annual audits. The board's books and records related to economic development bonds must be audited at least once each fiscal year by or at the direction of the legislative auditor. The actual costs of the audit must be paid from the board's funds.

History: En. Sec. 26, Ch. 686, and Sec. 28, Ch. 701, L. 1983; amd. Sec. 1, Ch. 308, L. 1985; amd. Sec. 43, Ch. 483, L. 2001; amd. Sec. 1, Ch. 487, L. 2001.

Cross-References

Audit costs and contracts, Title 5, ch. 13, part 4.

Part 16
Municipal Finance Consolidation Act

Part Cross-References

Long-term loans — destroyed school property, 20-6-640.

17-5-1601. Short title. This part shall be known and may be cited as the "Municipal Finance Consolidation Act of 1983".

History: En. Sec. 1, Ch. 620, L. 1983.

17-5-1602. Policy and purpose. (1) It is the policy of the state of Montana to:

(a) foster and promote, by all reasonable means, the provision of efficient capital markets and facilities for borrowing money by eligible government units to pay for capital improvements and other needs as otherwise authorized by law; and

(b) reduce, to the extent possible, costs of public indebtedness to taxpayers and residents by affording public bodies an appropriate degree of flexibility and choice in the marketing of their debt securities so as to minimize marketing costs and interest rates.

(2) It is the purpose of this part to promote the policies stated in subsection (1) by:

(a) creating a means for eligible government units to pool, in effect, the debt instruments they are otherwise authorized to offer for sale to the investment community in order to obtain economies of scale and reduce marketing and interest costs; and

(b) providing additional security for the payment of bonds and notes held by investors and thereby further reducing interest costs.

History: En. Sec. 2, Ch. 620, L. 1983; amd. Sec. 1, Ch. 208, L. 1995.

Cross-References

Local government — debt management, Title 7, ch. 7.

17-5-1603. Liberal construction. This part and the powers granted in this part must be liberally construed to effectuate the policies and purposes stated in this part.

History: En. Sec. 3, Ch. 620, L. 1983.

17-5-1604. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of investments created in 2-15-1808.

(2) "Department" means the department of commerce created in 2-15-1801.

(3) "Eligible government unit" means:

(a) any municipal corporation or political subdivision of the state, including without limitation any city, town, county, school district, authority as defined in 75-6-304, or other special taxing district or assessment or service district authorized by law to borrow money;

(b) the state, any board, agency, or department of the state, or the board of regents of the Montana university system when authorized by law to borrow money; or

(c) an Indian tribal government, in accordance with 17-1-702.

(4) "Reserve fund" means the municipal finance consolidation act reserve fund created in 17-5-1630.

History: En. Sec. 4, Ch. 620, L. 1983; amd. Sec. 35, Ch. 620, L. 1983; amd. Sec. 9, Ch. 581, L. 1987; amd. Sec. 1, Ch. 593, L. 1991; amd. Sec. 1, Ch. 380, L. 1993; amd. Sec. 2, Ch. 208, L. 1995; amd. Sec. 21, Ch. 498, L. 1999; amd. Sec. 19, Ch. 378, L. 2007; amd. Sec. 3, Ch. 359, L. 2019.

17-5-1605. Board of investments to implement. The board of investments may make and enforce orders, rules, and bylaws that are necessary or desirable for the implementation of this part.

History: En. Sec. 5, Ch. 620, L. 1983; amd. Sec. 35, Ch. 620, L. 1983; amd. Sec. 10, Ch. 581, L. 1987.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Unified investment program — general provisions, 17-6-201.

17-5-1606. Bonds, bond anticipation notes, and notes of the board. (1) The board may by resolution, from time to time, issue negotiable notes and bonds to finance loans or refinance its loans to eligible government units and its purchases of eligible government unit bonds, registered warrants, and tax or revenue anticipation notes and other notes, to establish or replenish reserves securing the payment of its bonds and notes, and to finance all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time:

(a) issue notes to renew notes and bonds to pay notes, including interest;

(b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured; and

(c) issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) The board may by resolution, from time to time, in anticipation of the sale of its securities under this part, issue temporary notes and renewal notes.

(4) Except as otherwise expressly provided by resolution of the board, every issue of its notes and bonds is an obligation of the board payable out of any revenue, assets, or money of the board, subject only to agreements with the holders of particular notes or bonds pledging particular revenue, assets, or money.

(5) (a) The notes and bonds must be authorized by resolutions of the board, must bear a date, and must mature at times as provided in the resolutions. The bonds may be issued as

serial bonds payable in annual installments, as term bonds, or as a combination of serial and term bonds. The notes and bonds must:

(i) bear interest at a rate or rates;

(ii) be in denominations;

(iii) be in a form, either coupon or registered;

(iv) carry registration privileges;

(v) be executed in a manner;

(vi) be payable in a medium of payment, at places inside or outside the state; and

(vii) be subject to terms of redemption as provided in resolutions of the board.

(b) The notes and bonds of the board may be sold at public or private sale at prices, which may be above or below par, that are determined by the board.

History: En. Sec. 6, Ch. 620, L. 1983; amd. Sec. 9, Ch. 481, L. 1985; amd. Sec. 3, Ch. 208, L. 1995.

Cross-References

Issuance of notes in anticipation of revenue, 17-1-201.

Redemption of bonds before maturity, 17-6-213.

17-5-1607. Participation voluntary. Use of the financing mechanism created by this part is entirely voluntary, and an eligible government unit is not required to sell its bonds, bond anticipation notes, or notes to the board.

History: En. Sec. 7, Ch. 620, L. 1983; amd. Sec. 4, Ch. 208, L. 1995.

17-5-1608. Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101, to exceed $190 million.

History: En. Sec. 8, Ch. 620, L. 1983; amd. Sec. 10, Ch. 481, L. 1985; amd. Sec. 2, Ch. 94, L. 1987; amd. Sec. 1, Ch. 483, L. 1997; amd. Sec. 1, Ch. 394, L. 2001; amd. Sec. 1, Ch. 562, L. 2003; amd. Sec. 3, Ch. 597, L. 2003; amd. Sec. 1, Ch. 50, L. 2007; amd. Sec. 20, Ch. 378, L. 2007.

17-5-1609. Purchase of anticipation notes. Notwithstanding any other provision of law, an eligible government unit may issue and the board may purchase notes in anticipation of an otherwise authorized sale of eligible government unit securities. In connection with any purchase of anticipation notes, the board may by agreement with the eligible government unit impose terms, conditions, and limitations that in the board's opinion are proper under the circumstances and for the purposes and security of the board and the holders of its bonds or notes.

History: En. Sec. 9, Ch. 620, L. 1983; amd. Sec. 5, Ch. 208, L. 1995.

Cross-References

Sale of notes in anticipation of state revenue, 7-7-109.

17-5-1610. Refunding obligations. (1) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption premium and any interest accrued to or to accrue to the date of redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the board are governed by the appropriate provisions of this part that relate to the issuance of obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under this part. The proceeds of refunding obligations may be applied to the purchase, redemption, or payment of outstanding obligations. Pending the application of the proceeds of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds of refunding obligations may be invested as provided in Title 17, chapter 6.

History: En. Sec. 10, Ch. 620, L. 1983.

Cross-References

County refunding general obligation bonds, Title 7, ch. 7, part 23.

Municipal refunding general obligation bonds, Title 7, ch. 7, part 43.

Crossover refunding bonds, Title 17, ch. 5, part 21.

17-5-1611. Additional powers of the board. In addition to all other powers conferred on the board by this part or any other law, the board has the power:

(1) to purchase or hold eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner that the board considers advisable;

(2) to sell eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes acquired or held by it at prices without relation to cost and in a manner that the board considers advisable;

(3) to invest funds or money acquired by the board as provided in 17-5-1641;

(4) with regard to an eligible local government unit, to:

(a) prescribe the form of application or procedure required for a loan or purchase of eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes;

(b) fix the terms and conditions of the loan or purchase; and

(c) enter into agreements with eligible government units with respect to loans or purchases;

(5) to render services to eligible government units in connection with public or private sales of their bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes that are eligible for purchase by the board under this part, including advisory and other services, and charge the eligible government units for the services;

(6) to charge for its costs and services in reviewing or acting upon a proposed loan to an eligible government unit or a proposed purchase by the board of bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes of the eligible government unit, whether or not the loan is made or the bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes are purchased;

(7) to fix and establish terms, interest rates, and provisions with respect to a purchase of eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes by the board, including:

(a) the date and maturities of the bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes;

(b) provisions as to redemption or payment before maturity; and

(c) any other matters judged by the board to be necessary, desirable, or advisable for the purchase or loan;

(8) in connection with any loan to an eligible government unit or purchase of bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes of an eligible government unit, to consider:

(a) the lawfulness and validity of the purpose to be served by the loan or purchase;

(b) the ability of the eligible government unit to secure borrowed money from other sources and the costs of borrowing;

(c) the ability of the eligible government unit to repay the loan, notes, or bonds;

(d) the priority of need for the particular public improvement or purpose to be financed; and

(e) varying the terms and conditions of its loans or purchases as between various eligible government units in accordance with their respective priorities and credit worthiness;

(9) to conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material to its information and necessary to carry out this part;

(10) to issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before the board;

(11) to appoint, employ, or contract for the services of officers, employees, agents, financial or professional advisers, and attorneys and to pay compensation for their services as the board determines;

(12) to procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable;

(13) to the extent permitted under its contracts with the holders of bonds or notes of the board, to consent to modification of the rate of interest, the time for payment of any installment

of principal or interest, or the security for any other term of a bond, bond anticipation note, note, contract, or agreement of any kind to which the board is a party; and

(14) to do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this part.

History: En. Sec. 11, Ch. 620, L. 1983; amd. Sec. 11, Ch. 481, L. 1985; amd. Sec. 6, Ch. 208, L. 1995.

17-5-1612. Specific loan authorization. The legislature intends that individual state agencies may borrow from the program established in this part, as specifically authorized by the legislature under the following conditions:

(1) A loan for which the security is an enterprise or internal service fund source may be approved by a simple majority vote of the legislature.

(2) A loan for which the security is a general fund appropriation, a general fund revenue source, or any type of tax or fee imposed by the legislature must be approved by a two-thirds vote of the members of each house of the legislature and must include language authorizing the creation of a state debt under Article VIII, section 8, of the Montana constitution.

History: En. Sec. 1, Ch. 399, L. 2005.

17-5-1613 through 17-5-1620 reserved.

17-5-1621. Provisions of bond resolutions. A resolution authorizing notes or bonds or any issue thereof may contain provisions that must be a part of the contract or contracts with the holders thereof as to:

(1) pledging all or any part of the revenue or funds of the board to secure the payment of the notes or bonds or of any issue thereof, subject to existing agreements with noteholders or bondholders;

(2) the setting aside of reserves for debt service funds in the possession of trustees, paying agents, and other depositories and the regulation and disposition thereof;

(3) limitations on the purpose for which the proceeds of the sale of notes or bonds may be applied and the pledge of the proceeds to secure the payment of the notes or bonds or of any issue thereof;

(4) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding notes or bonds;

(5) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(6) a commitment to employ adequate and competent personnel at reasonable compensation, salaries, fees, and charges as may be determined by the board in conjunction with the department and to maintain suitable facilities and services for the purpose of carrying out its programs;

(7) vesting in a trustee such property, rights, powers, and duties in trust as the board determines; and

(8) defining the acts or omissions that constitute a default in the obligations and duties of the board to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver. Rights and remedies may not be inconsistent with the laws of this state and the other provisions of this part.

History: En. Sec. 12, Ch. 620, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

Cross-References

Resolution to issue county bonds, 7-7-2238.

Resolution to issue municipal bonds, 7-7-4236.

17-5-1622. Validity of pledge. A pledge by the board is valid and binding from the time the pledge is made. The revenues, money, or property pledged and thereafter received by the board is immediately subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

History: En. Sec. 13, Ch. 620, L. 1983.

17-5-1623. Nonimpairment by state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the board and an eligible government unit or between the board and the holders of notes and bonds issued by the board, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose.

History: En. Sec. 14, Ch. 620, L. 1983; amd. Sec. 7, Ch. 208, L. 1995.

Cross-References

Ex post facto, obligation of contracts, and irrevocable privileges, Art. II, sec. 31, Mont. Const.

17-5-1624. Trust indenture. (1) In the discretion of the board, the bonds or notes of the board may be secured by a trust indenture between the board and a corporate trustee, which may be a trust company or bank having the power of a trust company inside or outside the state. A trust indenture may contain provisions for protecting and enforcing bondholders' rights and remedies that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board may provide by a trust indenture for the payment of the proceeds of the bonds or notes and the revenues to the trustee under the trust indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers necessary.

(2) All expenditures incurred in carrying out a trust indenture may be treated as part of the general overhead cost of the board.

History: En. Sec. 15, Ch. 620, L. 1983.

17-5-1625. Presumption of validity. After issuance, all bonds or notes of the board are conclusively presumed to be fully authorized by and issued under all the laws of this state and any person or governmental unit is estopped from questioning their proper authorization, sale, issuance, execution, or delivery by the board.

History: En. Sec. 16, Ch. 620, L. 1983.

17-5-1626. Signatures of board members. If any of the board members whose signatures appear on notes or bonds or coupons cease to be members before the delivery of the notes or bonds, their signatures shall nevertheless be valid and sufficient for all purposes as if the members had remained in office until delivery.

History: En. Sec. 17, Ch. 620, L. 1983.

Cross-References

Form and execution of county bonds, 7-7-2255.
Form and execution of municipal bonds, 7-7-4255.

17-5-1627. Negotiability of bonds or notes. Notwithstanding any other provisions of law, a bond or note issued under this part is fully negotiable for all purposes of the Uniform Commercial Code, Title 30, chapters 1 through 9A, and a holder or owner of a bond or note or of a coupon appurtenant to it, by accepting the bond, note, or coupon, is conclusively presumed to have agreed that the bond, note, or coupon is fully negotiable for all purposes of the Uniform Commercial Code.

History: En. Sec. 18, Ch. 620, L. 1983.

17-5-1628. Bonds or notes as legal investments. Notwithstanding the restrictions of any other law, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest debt service funds, money, or other funds belonging to them or within their control in bonds or notes issued under this part.

History: En. Sec. 19, Ch. 620, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

Cross-References

Permissible investments, 17-6-211.
Investments of financial institutions, 32-1-424.
Investments of financial institutions, 32-2-908.
Investment of credit union funds, 32-3-701.
Powers of trustees, Title 72, ch. 38, part 8.

17-5-1629. Tax exemption of bonds. Bonds, notes, or other obligations issued by the board under this part, their transfer, and their income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes. The board is not required to pay recording or transfer fees or taxes on instruments recorded by it.

History: En. Sec. 20, Ch. 620, L. 1983; amd. Sec. 12, Ch. 9, Sp. L. May 2000.

Cross-References

Classification of state bonds for tax, 15-6-204.

17-5-1630. Reserve fund. (1) The board shall establish and maintain a municipal finance consolidation act reserve fund, to which there shall be deposited or transferred:

(a) all money appropriated by the legislature for the purposes of the fund in accordance with the provisions of subsection (4);

(b) all proceeds of bonds required to be deposited in the fund by terms of a contract between the board and its bondholders or a resolution of the board with respect to the proceeds of bonds;

(c) the proceeds of any bond issue of the state that is authorized for such purpose;

(d) all other money appropriated by the legislature to the reserve fund; and

(e) any other money or funds of the board that it decides to deposit in the fund.

(2) All money held in the reserve fund shall be used solely for the payment of the principal of or interest on the bonds or notes secured in whole or in part by the fund or the debt service fund payments with respect to the bonds or notes, the purchase or redemption of the bonds or notes, the payment of interest on the bonds or notes, or the payment of any redemption premium required to be paid when the bonds or notes are redeemed prior to maturity. Money in the reserve fund may not be withdrawn at any time in an amount that reduces the fund to an amount less than the sum of minimum reserve requirements established in the resolutions or indentures of the board for the fund except, with respect to bonds or notes secured in whole or in part by the fund, for the purpose of making payment when due of principal, interest, redemption premiums, and debt service fund payments for the payment of which other money pledged is not available.

(3) Money in the reserve fund in excess of the required reserve may be withdrawn at any time by the board and transferred to another fund or account of the board established for purposes of this part, but not to any other fund or account.

(4) Nothing in this section creates a debt or liability of the state.

(5) Notwithstanding any provision of Title 17, chapter 6, the board may lend money for deposit to the reserve fund in an amount equal to any deficiency in the required debt service reserve. The loans shall be made on such reasonable terms and conditions as the board considers proper, including without limitation terms and conditions providing that the loans need not be repaid until the obligations of the board secured and to be secured by the reserve fund are no longer outstanding.

History: En. Sec. 21, Ch. 620, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 11, Ch. 581, L. 1987.

Cross-References

Fund structure, 17-2-102.

17-5-1631. Additional funds and accounts. The board may in its discretion establish additional reserves or other funds or accounts necessary, desirable, or convenient to further the accomplishment of the purposes of this part or to comply with the provisions of any of its agreements or resolutions.

History: En. Sec. 22, Ch. 620, L. 1983.

17-5-1632 through 17-5-1640 reserved.

17-5-1641. Investment. (1) Unless otherwise required by a resolution or agreement of the board, the board may invest funds coming under its control pursuant to this part in the same manner as permitted for investment of funds belonging to the state or held by the state treasurer.

(2) Funds from several or all accounts may be combined for investment, and any interest earned shall be prorated and credited to the various contributing accounts on the basis of the amounts thereof invested, calculated according to an average periodic balance or other generally

accepted accounting principle. Such proration must be calculated at least once a year or upon a specific request made to the board.

(3) All securities purchased by the board as an investment remain in the custody of the state treasurer until the same are sold, exchanged, retired, or mature and are paid.

History: En. Sec. 23, Ch. 620, L. 1983.

Cross-References

Investment of public funds, Art. VIII, sec. 13, Mont. Const.
Investments, Title 17, ch. 6, part 2.

17-5-1642. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a liability or obligation or a pledge of the faith and credit of the state but are payable solely from revenues or funds of the board generated or received for purposes of this part. An obligation issued under this part must contain on the face thereof a statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the obligation.

History: En. Sec. 24, Ch. 620, L. 1983.

Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.

17-5-1643. Sale or exchange of securities. (1) Notwithstanding any law applicable to or constituting any limitation on the maximum rate of interest per year payable on bonds or notes or to annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, an eligible government unit is authorized to contract to pay interest on or an interest cost per year for money borrowed from the board and evidenced by the eligible government unit securities purchased by the board without regard to any statutory limitations as to rate of interest per year payable or as to annual interest cost to maturity of money borrowed by the eligible government unit. An eligible government unit is authorized to contract with the board with respect to the loan or purchase, and the contract must contain the terms and conditions of the loan or purchase. An eligible government unit is authorized to pay fees and charges required to be paid to the board for its services.

(2) Notwithstanding any law applicable to or constituting any limitation on the sale of bonds or notes except the limitation on amount of bonded indebtedness, an eligible government unit may sell bonds or notes to the board by private negotiated sale, without limitation as to denomination. The bonds or notes may be fully registered or registerable as to principal only or in bearer form or may bear interest at the rate or rates, all in accordance with this section. The bonds or notes may be evidenced in the manner and may contain other provisions not inconsistent with this part and may be sold to the board without advertisement at the price or prices as may be determined, all as provided in the proceedings of the governing body of the eligible government unit pursuant to which the bonds or notes are authorized to be issued. The governing body of the eligible government unit may provide for the exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the manner provided in the proceedings authorizing their issuance. The bonds in changed form or denominations must be exchanged for the surrendered bonds in the same aggregate principal amounts and in a manner that no overlapping interest is paid and the bonds in changed form or denominations bear interest at the same rate or rates and mature on the same date or dates as the bonds for which they are exchanged. If any exchange is made under this subsection, the bonds surrendered by the holders at the time of the exchange must be canceled. The exchange may be made only at the request of the holders of the bonds to be surrendered. The eligible government unit may require all expenses incurred in connection with the exchange to be paid by the holders.

History: En. Sec. 25, Ch. 620, L. 1983; amd. Sec. 8, Ch. 208, L. 1995.

17-5-1644. Care and custody of bonds purchased by the board. The board may:

(1) enter into agreements or contracts with a bank, trust company, or financial institution, inside or outside the state, as may be necessary, desirable, or convenient, in the opinion of the board, for rendering services in connection with:

(a) the care, custody, or safekeeping of bonds or other investments held or owned by the board pursuant to this part;

(b) the payment or collection of amounts payable as to principal or interest; and

(c) the delivery to the board of bonds or other investments purchased by it or sold by it pursuant to this part;

(2) pay the cost of those services; and

(3) in connection with any of the services to be rendered by a bank, trust company, or financial institution as to the custody and safekeeping of its bonds or investments, require security in the form of collateral bonds, surety agreements, or security agreements in a form and amount as, in the opinion of the board, is necessary or desirable.

History: En. Sec. 26, Ch. 620, L. 1983; amd. Sec. 9, Ch. 208, L. 1995.

17-5-1645. Insurance or guaranty. The board may obtain, from a department or agency of the United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal on bonds or notes issued by the board or on bonds, bond anticipation notes, or notes of eligible government units purchased or held by the board.

History: En. Sec. 27, Ch. 620, L. 1983; amd. Sec. 10, Ch. 208, L. 1995.

17-5-1646. Default in payment. If the board or eligible government unit defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for 30 days or if the board or eligible government unit fails or refuses to comply with this part or defaults in an agreement made with the holders of an issue of notes or bonds, the holders of 25% of the aggregate principal amount of the outstanding notes or bonds of that issue have the right, upon proper application to a court of competent jurisdiction, to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in this part.

History: En. Sec. 28, Ch. 620, L. 1983; amd. Sec. 11, Ch. 208, L. 1995.

17-5-1647. Powers and duties of trustee on default. (1) A trustee appointed under 17-5-1646 may:

(a) by civil action enforce all rights of the noteholders or bondholders, including the right to require the board or eligible government unit to collect rates, charges, and other fees and to collect interest and amortization payments on bonds and notes held by them adequate to carry out a pledge of or an agreement as to the rates, charges, and other fees and of the interest and amortization payments and the right to require the board or eligible government unit to carry out any other agreements with the holders of the notes or bonds and to perform their duties under this part;

(b) bring a civil action upon the notes or bonds;

(c) by civil action require the board or eligible government unit to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(d) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds;

(e) declare all the notes or bonds due and payable and, if all defaults are made good, then, with the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(2) The trustee, in addition to the powers stated in subsection (1), has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(3) Before declaring the principal of notes or bonds due and payable, the trustee shall give 30 days' notice in writing to the governor, the attorney general, and the board or eligible government unit defaulting.

History: En. Sec. 29, Ch. 620, L. 1983; amd. Sec. 12, Ch. 208, L. 1995.

Cross-References

Powers and duties of trustees, Title 72, ch. 38, part 8.

17-5-1648. Exemption from execution and sale. All property of the board, other than its revenues or funds received pursuant to this part, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against such property. A judgment against the board constitutes a charge or lien upon such property.

History: En. Sec. 30, Ch. 620, L. 1983.

Cross-References

Property exempt from execution, Title 25, ch. 13, part 6.

17-5-1649. Annual audit. The board's books and records must be audited at least once each fiscal year by or at the direction of the legislative auditor. The actual costs of the audit shall be paid from the board's funds.

History: En. Sec. 31, Ch. 620, L. 1983; amd. Sec. 2, Ch. 308, L. 1985; amd. Sec. 3, Ch. 94, L. 1987.

Cross-References

Audit costs and contracts, Title 5, ch. 13, part 4.

17-5-1650. Annual report. (1) By December 31 of each year, the board shall publish a financial report for distribution to the governor, the legislature, and the public. Except as provided in subsection (2), distribution to the legislature is accomplished by providing a copy to a legislator on request.

(2) Subject to 5-11-222(5), a report demonstrating the requirements of subsections (1) and (3) must be provided to the legislature in accordance with 5-11-210.

(3) The report must include:

(a) a statement of the board's current financial position with respect to its activities under this part;

(b) a summary of its activities pursuant to this part during the previous year including:

(i) a listing of the eligible governmental securities purchased by the board;

(ii) a listing of the bonds and notes sold by the board; and

(iii) a summary of the performance of any other investments of the board's funds received under this part;

(c) an estimate of the levels of activities for the next year; and

(d) a comparison of the activities during the previous year with the estimates of those activities that were made in the previous annual report.

History: En. Sec. 32, Ch. 620, L. 1983; amd. Sec. 4, Ch. 94, L. 1987; amd. Sec. 23, Ch. 112, L. 1991; amd. Sec. 20, Ch. 349, L. 1993; amd. Sec. 13, Ch. 208, L. 1995; amd. Sec. 56, Ch. 545, L. 1995; amd. Sec. 39, Ch. 261, L. 2021; amd. Sec. 3, Ch. 496, L. 2023.

17-5-1651. Limitations on board's power. Under this part, the board may not:

(1) make loans of money to any person, firm, or corporation other than an eligible government unit or purchase securities issued by any person, firm, or corporation other than an eligible government unit as provided in this part;

(2) emit bills of credit, accept deposits of money for time or demand deposit, engage in any form or manner in the conduct of any private or commercial banking business, or act as a savings bank or savings and loan association;

(3) be or constitute a bank or trust company within the jurisdiction or under the control of the department of administration or the comptroller of the currency of the United States department of the treasury;

(4) be or constitute a bank, banker, or dealer in securities within the meaning of or subject to the provisions of any securities, securities exchange, or securities dealers law of the United States or of this state or of any other state.

History: En. Sec. 33, Ch. 620, L. 1983; amd. Sec. 14, Ch. 208, L. 1995; amd. Sec. 44, Ch. 483, L. 2001; amd. Sec. 8, Ch. 23, L. 2023.

Parts 17 through 19 reserved

Part 20
Procurement of Vehicles and Equipment

17-5-2001. Loans to state agencies. (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan

agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and

(b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed $28.5 million, payable over a term not to exceed 15 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed $4.6 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system, and other associated costs, for the implementation of the REAL ID Act of 2005. Loans are payable from the state special revenue fund provided for in 61-5-129(4)(b). *(Subsection (3) void on occurrence of contingency—sec. 8, Ch. 443, L. 2017.)*

History: En. Sec. 2, Ch. 483, L. 1997; amd. Sec. 2, Ch. 394, L. 2001; amd. Sec. 2, Ch. 562, L. 2003; amd. Sec. 4, Ch. 597, L. 2003; amd. Sec. 2, Ch. 550, L. 2005; amd. Sec. 2, Ch. 50, L. 2007; amd. Sec. 2, Ch. 443, L. 2017.

Compiler's Comments

Contingent Voidness: Section 8, Ch. 443, L. 2017, provided: "If the REAL ID Act of 2005, Public Law 109-13, is repealed or if the federal government notifies the state of Montana that compliance with the REAL ID Act is not required, then [this act] is void."

Part 21
Crossover Refunding Bonds

Part Cross-References

Refunding bonds, Title 17, ch. 5, part 3.

17-5-2101. Definitions. As used in this part, the following definitions apply:

(1) "Bonds" means crossover refunding bonds.

(2) "Crossover date" means the date the proceeds of crossover refunding bonds are pledged to the payment of the obligations to be refunded.

(3) "Governing body" means the board or body that exercises the legislative power of the public body.

(4) "Public body" means any political subdivision of the state and includes but is not limited to a county, city, town, or school district.

History: En. Sec. 1, Ch. 171, L. 1987.

17-5-2102. Crossover refunding bonds authorized. (1) A public body authorized to issue refunding obligations may issue bonds pursuant to this part without regard to the limitations contained in any other law relating to:

(a) the establishment of an escrow account for the obligations to be refunded;

(b) the giving of a notice of redemption for the obligations to be refunded and redeemed; or

(c) the application of the proceeds of the refunding obligations.

(2) The proceeds of bonds, less any proceeds applied to payment of costs of issuance or refunding, must be deposited in a sinking fund account irrevocably appropriated to the payment of principal of and interest on the refunding obligations until the crossover date. The sinking fund account must be maintained as an escrow account with a suitable financial institution within or outside the state and amounts in it must be invested in securities that are direct obligations

of the United States or on which the payment of the principal and interest is guaranteed by the United States. In the resolution authorizing the issuance of the bonds, the governing body may pledge to their payment any source of payment of the obligations to be refunded. In the case of general obligation bonds, property taxes must be levied and appropriated to the sinking fund account in the amounts needed, together with estimated investment income from money in the sinking fund account and any other revenue available upon discharge of the obligations to be refunded, to pay when due the principal of and interest on the bonds. Funds pledged to the credit of the sinking fund for the obligations to be refunded and not required on the crossover date for the payment of principal, premium, or interest on the obligations to be refunded may be appropriated by the public body to the sinking fund account for the bonds.

(3) The public body may pay the reasonable costs and expenses of issuing bonds and of establishing and maintaining the escrow account.

(4) On the crossover date, obligations that are refunded pursuant to this part are no longer considered outstanding for purposes of any debt limitation if the provisions of subsection (5) are met. Until the crossover date, the bonds do not count against any debt limitation if the provisions of subsection (5) are met. After the crossover date, the bonds must be considered outstanding for purposes of any debt limitation.

(5) The securities in the escrow account must mature or be callable at the option of the holder on the crossover date, bearing interest at a rate, and payable on the dates that are necessary to provide sufficient funds, in addition to any cash retained in the escrow account, to pay the following when due:

(a) the interest that will accrue on each refunded obligation to its maturity or redemption date, if called for redemption;

(b) the principal of each refunded obligation at maturity or on the redemption date; and

(c) any redemption premium.

History: En. Sec. 2, Ch. 171, L. 1987; amd. Sec. 20, Ch. 277, L. 2003.

Cross-References

County finance — bonds, Title 7, ch. 7, part 22.
County refunding general obligation bonds, Title 7, ch. 7, part 23.
Municipal bonds and indebtedness, Title 7, ch. 7, part 42.
Municipal refunding general obligation bonds, Title 7, ch. 7, part 43.
School district and county school bonds, Title 20, ch. 9, part 4.

Part 22
Bond Fees

17-5-2201. Fee for issuance of bonds. Except for issuers of general obligation bonds that are payable solely by general fund revenue and as provided in 17-5-1312(2)(a), each state bond issuer shall, on issuance of the bonds, pay 30 cents per thousand of bonds unless another fee is specifically provided for a type of bonds. The fee must be deposited in the state general fund for the purpose of funding a portion of the annual comprehensive financial report audit.

History: En. Sec. 13, Ch. 190, L. 1987; amd. Sec. 3, Ch. 341, L. 2009; amd. Sec. 7, Ch. 58, L. 2023.

CHAPTER 6
DEPOSITS AND INVESTMENTS

Part 1 — Deposits

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17-6-311. Limitation on size of investments.
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Part 1
Deposits

Part Cross-References

Deposit and investment of public funds by county, city, or town, Title 7, ch. 6, part 2.

17-6-101. Deposit of funds in hands of state treasurer. (1) Under the direction of the board of investments, the state treasurer shall deposit public money in the treasurer's possession and under the treasurer's control in solvent banks, building and loan associations, savings and loan associations, and credit unions located in the state, except as otherwise provided by law, subject to national supervision or state examination.

(2) If needed financial services are not available through solvent banks, building and loan associations, savings and loan associations, and credit unions located in the state, the state treasurer may deposit public money in out-of-state financial institutions subject to national supervision.

(3) The state treasurer shall deposit funds in banks, building and loan associations, savings and loan associations, and credit unions in amounts that may be designated by the board of investments and shall withdraw deposits when instructed to by the board of investments.

(4) When money has been deposited under the board of investments and in accordance with the law, the state treasurer is not liable for loss on account of any deposit occurring from any cause other than the treasurer's own neglect or fraud.

(5) The state treasurer shall withdraw all deposits or any part of the deposits from time to time to pay and discharge the legal obligations of the state presented to the treasurer in accordance with the law.

(6) The state treasurer may contract with a financial institution to provide general depository banking services. The cost of contracting for banking services is statutorily appropriated, as provided in 17-7-502, from the general fund.

History: En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; R.C.M. 1947, 79-301(part); amd. Sec. 10, Ch. 421, L. 1985; amd. Sec. 2, Ch. 107, L. 1993; amd. Sec. 1, Ch. 131, L. 1993.

Cross-References

State Treasurer — general duties, 17-1-111.
Securities lending program, 17-1-113.
Giving security for deposit prohibited — exceptions, 32-1-447.
Authority to receive state deposits, 32-3-401.

17-6-102. Insurance on deposits. (1) Deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration may not be made unless the bank, building and loan association, savings and loan association, or credit union first delivers to the state treasurer or deposits in trust with some solvent bank, as security therefor, bonds or other obligations of the kinds listed in 17-6-103, having a market value equal to at least 50% of the amount of the deposits in excess of the amount insured. The board of investments may require security of a greater value. When negotiable securities are placed in trust, the trustee's receipt may be accepted instead of the actual securities if the receipt is in favor of the state treasurer, successors in office, and the state of Montana and the form of receipt and the trustee have been approved by the board of investments.

(2) Any bank, building and loan association, savings and loan association, or credit union pledging securities as provided in this section may at any time substitute securities for any part of the securities pledged. The substituted collateral must conform to 17-6-103 and have a market value at least sufficient for compliance with subsection (1). If the substituted securities are held in trust, the trustee shall, on the same day the substitution is made, forward by registered or certified mail to the state treasurer and to the depository financial institution a receipt specifically describing and identifying both the securities substituted and those released and returned to the depository financial institution.

History: **En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; R.C.M. 1947, 79-301(2), (4); amd. Sec. 2, Ch. 158, L. 1979; amd. Sec. 11, Ch. 421, L. 1985; amd. Sec. 29, Ch. 10, L. 1993.**

Cross-References

Giving security for deposit prohibited — exceptions, 32-1-447.
Federal Deposit Insurance Corporation, Title 32, ch. 1, part 6.
Credit unions — insurance on share accounts, 32-3-611.

17-6-103. Security for deposits of public funds. The following kinds of securities may be pledged or guarantees may be issued to secure deposits of public funds:

(1) direct obligations of the United States;

(2) securities as to which the payment of principal and interest is guaranteed by the United States;

(3) securities issued or fully guaranteed by the following agencies of the United States or their successors, whether or not guaranteed by the United States:

(a) commodity credit corporation;

(b) federal intermediate credit banks;

(c) federal land bank;

(d) bank for cooperatives;

(e) federal home loan banks, including a letter of credit from a federal home loan bank;

(f) federal national mortgage association;

(g) government national mortgage association;

(h) small business administration;

(i) federal housing administration; and

(j) federal home loan mortgage corporation;

(4) securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;

(5) general obligation bonds of the state or of any county, city, school district, or other political subdivision of the state;

(6) revenue bonds of any county, city, or other political subdivision of the state, when backed by the full faith and credit of the subdivision or when the revenue pledged to the payment of the bonds is derived from a water or sewer system and the issuer has covenanted to establish and maintain rates and charges for the system in an amount sufficient to produce revenue equal to at least 125% of the average annual principal and interest due on all bonds payable from the revenue during the outstanding term of the bonds;

(7) interest-bearing warrants of the state or of any county, city, school district, or other political subdivision of the state issued in evidence of claims in an amount that, with all other claims on the same fund, does not exceed the amount validly appropriated in the current budget for expenditure from the fund in the year in which they are issued;

(8) obligations of housing authorities of the state secured by a pledge of annual contributions or by a loan agreement made by the United States or any agency of the United States providing for contributions or a loan sufficient with other funds pledged to pay the principal of and interest on the obligations when due. The bonds and other obligations made

eligible for investment in 7-15-4505 and 32-1-424(1)(a) may be used as security for all deposits of public funds or obligations for which depository bonds or any kind of bonds or other securities are required or may by law be deposited as security.

(9) general obligation bonds of other states and of municipalities, counties, and school districts of other states;

(10) undertaking or guarantees issued by a surety company authorized to do business in the state;

(11) first mortgages and trust indentures on real property. The depository shall, on a quarterly basis, certify to the state treasurer that sufficient first mortgages and trust indentures on real property are available and segregated to secure deposits of public funds. The board of investments shall determine the amount of security required.

(12) bonds issued pursuant to Title 7, chapter 12, parts 21, 41, and 42;

(13) bonds issued pursuant to Title 90, chapter 6, part 1;

(14) revenue bonds issued by any unit of the university system of the state of Montana;

(15) advance refunded bonds secured by direct obligations of the United States treasury held in irrevocable escrow; and

(16) bank-owned certificates of deposit fully insured by the federal deposit insurance corporation.

History: **Ap. p. Sec. 4, Ch. 298, L. 1973; amd. Sec. 2, Ch. 160, L. 1975; amd. Sec. 1, Ch. 92, L. 1977; Sec. 79-307, R.C.M. 1947; Ap. p. Sec. 2, Ch. 5, Ex. L. 1933; amd. Sec. 2, Ch. 37, L. 1935; re-en. Sec. 5309.36, R.C.M. 1935; amd. Sec. 109, Ch. 431, L. 1975; Sec. 35-145, R.C.M. 1947; R.C.M. 1947, 35-145, 79-307; amd. Sec. 3, Ch. 158, L. 1979; amd. Sec. 1, Ch. 185, L. 1979; amd. Sec. 1, Ch. 437, L. 1979; amd. Sec. 5, Ch. 540, L. 1979; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 1, Ch. 62, L. 1985; amd. Sec. 4, Ch. 57, L. 1987; amd. Sec. 56, Ch. 370, L. 1987; amd. Sec. 1, Ch. 137, L. 1989; amd. Sec. 2, Ch. 201, L. 1989; amd. Sec. 10, Ch. 179, L. 1995; amd. Sec. 96, Ch. 42, L. 1997; amd. Sec. 1, Ch. 158, L. 1999; amd. Sec. 1, Ch. 45, L. 2019.**

Cross-References

Deposit security, 7-6-207.
Investment of certain money in county warrants, 7-6-2701.
Call for payment of warrants drawing interest, 7-6-4502.
Investment of municipal money in city or town warrants, 7-6-4603.
Authorization for additional indebtedness for water or sewer systems, 7-7-108.
County general obligation bonds, Title 7, ch. 7, part 22.
Municipal general obligation bonds, Title 7, ch. 7, part 42.
Municipal revenue bonds, Title 7, ch. 7, part 44.
Public obligations as authorized security, 17-5-1123.
Surety defined, 28-11-401.
What real property may be mortgaged — debts secured, 71-1-201.
Trust indenture considered to be mortgage on real property, 71-1-305.

17-6-104. Interest on deposits — conformity with federal law. (1) The board of investments may require the payment of quarterly annual interest on daily balances of collected funds at a rate to be agreed upon between the depository banks, building and loan associations, savings and loan associations, credit unions, and the board of investments. The rate must be fixed semiannually during the months of July and January of each year.

(2) The interest requirements on deposits of public funds made under the laws of the state of Montana or otherwise by county or city treasurers or town clerks may not at any time be in violation of any act of the congress of the United States or of any rule or regulation of the federal reserve system, federal home loan bank system, or the federal deposit insurance corporation, national credit union administration, or any other fiscal agency of the United States of which the banks, building and loan associations, savings and loan associations, or credit unions of this state may be members or debtors.

History: **(1)En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; Sec. 79-301, R.C.M. 1947; (2)En. Sec. 1, Ch. 104, L. 1937; amd. Sec. 2, Ch. 14, L. 1974; Sec. 79-302, R.C.M. 1947; R.C.M. 1947, 79-301(part), 79-302; amd. Sec. 6, Ch. 540, L. 1979; amd. Sec. 12, Ch. 421, L. 1985; amd. Sec. 30, Ch. 10, L. 1993.**

Cross-References

Banks allowed to join federal reserve bank, 32-1-373.
Claims — order of payment — priorities, 32-1-534.

17-6-105. State treasurer as treasurer of state agencies — deposits of money. (1) The state treasurer is designated the treasurer of every state agency and institution.

(2) All state agencies shall deposit all money, credits, evidences of indebtedness, and securities either:

(a) in banks, building and loan associations, savings and loan associations, or credit unions located in the city or town in which the agencies are situated, if there is a qualified bank, building and loan association, savings and loan association, or credit union in the city or town as designated by the state treasurer with the approval of the board of investments; or

(b) with the state treasurer.

(3) Each bank, building and loan association, savings and loan association, or credit union shall pledge securities sufficient to cover 50% of the deposits at all times.

(4) The deposits must be made in the name of the state treasurer, must be subject to withdrawal at the treasurer's option, and must draw interest as other state money, in accordance with the provisions of this part.

(5) This chapter does not impair or otherwise affect any covenant entered into pursuant to law by any agency respecting the segregation, deposit, and investment of any revenue or funds pledged for the payment and security of bonds or other obligations authorized to be issued by the agency, and all the funds must be deposited and invested in accordance with the covenants notwithstanding any provision of this chapter.

(6) Except as otherwise provided by law and subject to subsection (8), all money, credits, evidences of indebtedness, and securities received by a state agency must be deposited with the state treasurer or in a depository approved by the state treasurer each day when the accumulated amount of coin and currency requiring deposit exceeds $200 or total collections exceed $750. All money, credits, evidences of indebtedness, and securities collected must be deposited at least every 14 days.

(7) Whenever the department determines that it is in the best financial interest of the state, the department may require any money received or collected by any agency to be immediately deposited to the credit of the state treasurer.

(8) (a) An agency may propose a modified deposit schedule, including proposed internal controls, to the department that is different from the deposit schedule requirements of subsection (6). Upon receiving a proposal, the department shall transmit a copy of the proposal to the board of investments. The department shall review the proposal to ensure that deposits are made every 14 days unless the requesting agency shows hardship due to peak processing times.

(b) (i) The department shall review the proposal to ensure adequate internal controls over amounts to be deposited.

(ii) The board of investments shall review the proposal to ensure that state assets and earnings on the assets are maximized.

(c) (i) If the department and the board of investments each approves of the proposal, the department shall notify the agency that the proposal is approved and the department and the agency may proceed to implement the proposal.

(ii) If the department or the board of investments disapproves the proposal, the department shall notify the agency that the proposal is disapproved.

(9) On or before September 15 immediately preceding a regular legislative session, the department shall submit to the legislative fiscal analyst and the legislative auditor a report detailing all active accounts for which a modified deposit schedule has been approved under subsection (8).

(10) For the purposes of this section, "agency" has the meaning provided in 17-1-104 and includes a contractor of an agency if the contractor collects at least $50,000 annually on behalf of the state from all sources.

History: (1) thru (6)En. Sec. 1, Ch. 112, L. 1921; re-en. Sec. 192, R.C.M. 1921; amd. Sec. 1, Ch. 157, L. 1931; re-en. Sec. 192, R.C.M. 1935; amd. Sec. 9, Ch. 147, L. 1963; amd. Sec. 2, Ch. 298, L. 1973; amd. Sec. 3, Ch. 14, L. 1974; amd. Sec. 4, Ch. 286, L. 1977; Sec. 79-306, R.C.M. 1947; (7)En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971, amd. Sec. 50, Ch. 326, L. 1974; Sec. 82-110, R.C.M. 1947; R.C.M. 1947, 79-306, 82-110(5); amd. Sec. 4, Ch. 158, L. 1979; amd. Sec. 13, Ch. 421, L. 1985; amd. Sec. 1, Ch. 339, L. 1991; amd. Sec. 2, Ch. 420, L. 2007; amd. Sec. 1, Ch. 167, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 167, L. 2025. Amendment effective April 16, 2025.

Cross-References
Unified investment program — general provisions, 17-6-201.
Investment funds — general provisions, 17-6-202.

Part 2
Investments

Part Cross-References
Investment of public funds, Art. VIII, sec. 13, Mont. Const.

17-6-201. Unified investment program — general provisions. (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires an investment manager to:

(a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

(c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) (a) Retirement funds may be invested in common stocks of any corporation.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies that demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.

(e) This section does not prevent investment in home loan mortgages under the provisions of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

(4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto investments made under its general supervision.

(5) The board shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made;

(d) prepare the claim to pay for the investment; and

(e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.

(6) The board may:

(a) execute deeds of conveyance transferring real property obtained through investments. Prior to the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a qualified appraiser.

(b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108.

History: (1), (2), (5) thru (7)En. Sec. 5, Ch. 298, L. 1973; amd. Sec. 1, Ch. 203, L. 1977; Sec. 79-308, R.C.M. 1947; (3), (4)En. 82A-204 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 90, Ch. 326, L. 1974; Sec. 82A-204, R.C.M. 1947; R.C.M. 1947, 79-308, 82A-204(4); amd. Sec. 1, Ch. 395, L. 1981; amd. Sec. 11, Ch. 281, L. 1983; amd. Sec. 19, Ch. 677, L. 1983; amd. Sec. 2, Ch. 183, L. 1985; amd. Sec. 3, Ch. 418, L. 1985; amd. Sec. 1, Ch. 158, L. 1987; amd. Sec. 1, Ch. 335, L. 1987; amd. Sec. 12, Ch. 581, L. 1987; amd. Sec. 1, Ch. 291, L. 1991; amd. Sec. 1, Ch. 46, L. 1993; amd. Sec. 1, Ch. 331, L. 1993; amd. Sec. 2, Ch. 37, Sp. L. November 1993; amd. Sec. 32, Ch. 18, L. 1995; amd. Sec. 1, Ch. 32, L. 1997; amd. Sec. 25, Ch. 422, L. 1997; amd. Sec. 12, Ch. 532, L. 1997; amd. Sec. 3, Ch. 549, L. 1997; amd. Sec. 2, Ch. 330, L. 1999; amd. Sec. 3, Ch. 471, L. 1999; amd. Sec. 5, Ch. 418, L. 2001; amd. Sec. 2, Ch. 247, L. 2007; amd. Sec. 6, Ch. 349, L. 2011.

Cross-References

Accurate accounting records and interaccount loans, 17-2-107.
U.C.C. — secured transactions, Title 30, ch. 9A.
Proceedings in foreclosure suits, 71-1-222.

17-6-202. Investment funds — general provisions. (1) For each treasury fund account into which state funds are segregated by the department of administration pursuant to 17-2-106, individual transactions and totals of all investments shall be separately recorded to the extent directed by the department.

(2) However, the securities purchased and cash on hand for all treasury fund accounts not otherwise specifically designated by law or by the provisions of a gift, donation, grant, legacy, bequest, or devise from which the fund account originates to be invested shall be pooled in an account to be designated "treasury cash account" and placed in one of the investment funds designated in 17-6-203. Except for the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, the share of the income for this account shall be credited to the general fund. For the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, the share of the income for this account must be credited to the debt and liability free account established in 17-6-214.

(3) If, within the list in 17-6-203 of separate investment funds, more than one investment fund is included which may be held jointly with others under the same separate listing, all investments purchased for that separate investment fund shall be held jointly for all the accounts participating therein, which shall share all capital gains and losses and income pro rata.

History: En. Sec. 6, Ch. 298, L. 1973; amd. Sec. 7, Ch. 540, L. 1977; R.C.M. 1947, 79-309(part); amd. Sec. 2, Ch. 48, L. 2023.

Cross-References

Accurate accounting records and interaccount loans, 17-2-107.

17-6-203. Separate investment funds. Separate investment funds must be maintained as follows:

(1) the permanent funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in Article X, sections 2 and 10, of the Montana constitution. The principal and any part of the principal of each fund constituting the Montana permanent fund type are subject to deposit at any time when due under the statutory provisions applicable to the fund and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system maintained by the state, including:

(a) the public employees' retirement system described in Title 19, chapter 3;

(b) the judges' retirement system described in Title 19, chapter 5;

(c) the highway patrol officers' retirement system described in Title 19, chapter 6;

(d) the sheriffs' retirement system described in Title 19, chapter 7;

(e) the game wardens' and peace officers' retirement system described in Title 19, chapter 8;

(f) the municipal police officers' retirement system described in Title 19, chapter 9;

(g) the firefighters' unified retirement system described in Title 19, chapter 13;

(h) the Volunteer Firefighters' Compensation Act under Title 19, chapter 17;

(i) the teachers' retirement system described in Title 19, chapter 20; and

(j) the workers' compensation program described in Title 39, chapter 71, part 23;

(3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;

(4) the fish and wildlife mitigation trust fund established by 87-1-611;

(5) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution to be observed by the state of Montana. If a gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other gifts, donations, grants, legacies, bequests, devises, or contributions.

(6) a fund consisting of coal severance taxes allocated to the coal severance tax trust fund under Article IX, section 5, of the Montana constitution. The principal of the coal severance tax trust fund is permanent. If the legislature appropriates any part of the principal of the coal severance tax trust fund by a vote of three-fourths of the members of each house, the appropriation or investment may create a gain or loss in the principal.

(7) a Montana tobacco settlement trust fund established in accordance with Article XII, section 4, of the Montana constitution and Title 17, chapter 6, part 6; and

(8) additional investment funds that are expressly required by law or that the board of investments determines are necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source.

History: **Ap. p. Sec. 6, Ch. 298, L. 1973; amd. Sec. 7, Ch. 540, L. 1977; Sec. 79-309, R.C.M. 1947; Ap. p. Sec. 12, Ch. 70, L. 1929; re-en. Sec. 5668.30, R.C.M. 1935; amd. Sec. 21, Ch. 147, L. 1963; amd. Sec. 37, Ch. 100, L. 1973; Sec. 79-1212, R.C.M. 1947; R.C.M. 1947, 79-309(part), 79-1212; amd. Sec. 12, Ch. 281, L. 1983; amd. Sec. 4, Ch. 418, L. 1985; amd. Sec. 6, Ch. 445, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 12, Ch. 223, L. 1997; amd. Sec. 9, Ch. 34, L. 2001; amd. Sec. 4, Ch. 467, L. 2001; amd. Sec. 3, Ch. 99, L. 2011.**

Cross-References

Disposal of severance taxes, 15-35-108.

Coal severance tax bonds — renewable resource development, Title 17, ch. 5, part 7.

17-6-204. Short-term investment of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision that has funds that are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit the funds to the state treasurer for investment under the direction of the board of investments as part of the short-term pooled investment fund.

(2) A separate account, designated by name and number for each participant in the fund, must be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report must be furnished to each participant having a beneficial interest in the short-term pooled investment fund, showing the changes in investments made during the preceding month. Details of any investment transaction must be furnished to any participant upon request.

(3) The principal and accrued income, and any part of that amount, of each account maintained for a participant in the short-term pooled investment fund is subject to payment at any time from the fund upon request. Accumulated income must be remitted to each participant at least annually.

(4) An order or warrant may not be issued upon any account for a larger amount than the principal and accrued income of the account to which it applies. If any order or warrant is issued, the participant receiving it shall reimburse the excess amount to the fund from any funds not otherwise appropriated. The state treasurer is liable under the treasurer's official bond for any amount not reimbursed.

History: **En. Sec. 8, Ch. 298, L. 1973; R.C.M. 1947, 79-311; amd. Sec. 217, Ch. 56, L. 2009; amd. Sec. 2, Ch. 84, L. 2015.**

Cross-References
Maintenance of fund and account records and interfund loans, 17-2-105.
Accurate accounting records and interaccount loans, 17-2-107.

17-6-205. Long-term investment of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision may participate in the various investment pools or other investments offered by the board of investments not otherwise prohibited by law.

(2) A local government may invest with the board of investments under this section if:

(a) the source of the original principal for investment with the board is from an identifiable action or event such as a legal settlement, judgment, bequest, insurance settlement, trust fund, or other one-time source of funds;

(b) the local government does not anticipate the need to expend 50% or more of the original principal for investment within 5 years from the initial investment with the board;

(c) the initial investment is at least $10 million; and

(d) the local government agrees to the board's investment policies, including those addressing liquidity needs, risk and return considerations, asset allocation, permissible investments, and any other necessary investment considerations or limits.

(3) The board of investments is not obligated to accept any funds for investment under this section. No local government is obligated to invest with the board under this section.

History: En. Sec. 1, Ch. 84, L. 2015.

17-6-206 reserved.

17-6-207. Investment of state cabin site sales. The board of investments may purchase from approved lenders contracts for deed or mortgages for cabin sites on state trust land for the trust and legacy fund.

History: En. Sec. 2, Ch. 488, L. 1991.

Cross-References
Cabin site sales, 77-2-318.

17-6-208 through 17-6-210 reserved.

17-6-211. Preference to in-state investment firms — commitment agreement with board of housing. (1) The board of investments shall endeavor to direct its portion of the state's investment business to those investment firms and/or financial institutions which maintain offices in the state and thereby make contributions to the state economy. Further, due consideration shall be given to investments which will benefit the smaller communities in the state. The state's investment business will be directed to out-of-state firms only when there is a distinct economic advantage to the state of Montana.

(2) The board may enter into a commitment agreement with the board of housing at the time of an issue of bonds or notes by the board of housing providing for the purchase at a specified future date, not to exceed 15 years from the date of the issue, of all or any portion of the amount of mortgage loans purchased with the proceeds of the issue. The board of investments may charge reasonable fees for any commitment and may agree to purchase the mortgage loans on terms that in the judgment of the board of investments provide a fair market rate of return to the purchasers.

History: En. Sec. 7, Ch. 298, L. 1973; amd. Sec. 1, Ch. 92, L. 1974; amd. Sec. 1, Ch. 228, L. 1974; amd. Sec. 1, Ch. 316, L. 1977; R.C.M. 1947, 79-310; amd. Sec. 1, Ch. 81, L. 1979; amd. Sec. 1, Ch. 180, L. 1979; amd. Sec. 2, Ch. 395, L. 1981; amd. Sec. 1, Ch. 358, L. 1983; amd. Sec. 1, Ch. 360, L. 1983; amd. Sec. 1, Ch. 387, L. 1983; amd. Sec. 20, Ch. 677, L. 1983; amd. Sec. 5, Ch. 418, L. 1985; amd. Sec. 14, Ch. 421, L. 1985.

Cross-References
Investment of fund, 19-2-504.
Financial administration of money, 19-20-501.
U.C.C. — negotiable instruments, Title 30, ch. 3.
U.C.C. — investment securities, Title 30, ch. 8.
Authority to receive state deposits, 32-3-401.
Mortgages of real property, Title 71, ch. 1, part 2.
Board of Housing — financing of housing, Title 90, ch. 6, part 1.
Montana Facility Finance Authority bonds — legal investment, 90-7-113.

17-6-212. State purchase of general fund warrants. (1) The state reserves a preference right, prior to the right of any person, company, or corporation, to purchase state general fund warrants issued with funds under the control of the board of investments and subject to investment.

(2) When the board of investments has under its control any funds subject to investment that in its judgment it would be advantageous to invest in state general fund warrants and there are not sufficient funds in the state general fund to pay warrants issued against the fund at the time that they are issued and presented for payment, it shall authorize and direct the state treasurer to purchase state general fund warrants, designating the fund or funds to be invested and fixing the amount or amounts to be invested. State general fund warrants registered by the state treasurer pursuant to 17-8-304(1) and purchased by the board of investments must bear interest at a rate determined by the board. When determining the interest rate, the board shall consider:

(a) the duration of the investment by estimating the time at which the warrants will be redeemed pursuant to 17-8-304(1); and

(b) the interest rate of the investments liquidated to provide the funds to purchase the warrants.

(3) The state treasurer shall attach to or stamp, write, or print upon each general fund warrant issued after the receipt of notice, until warrants totaling the amounts designated have been issued, a notice that the state will exercise its preference right to purchase the warrant.

(4) The state treasurer shall, when the marked warrant is presented, pay it out of the proper fund as designated by the board, and the warrant purchased must be registered as other state warrants and must bear interest as provided by law.

(5) When the designated amounts have been invested, the department shall notify the board of investments, which shall issue orders for warrants to be issued in favor of the treasurer.

History: En. Sec. 89, Ch. 147, L. 1909; re-en. Sec. 1912, R.C.M. 1921; amd. Sec. 1, Ch. 15, L. 1927; re-en. Sec. 1912, R.C.M. 1935; amd. Sec. 33, Ch. 326, L. 1974; R.C.M. 1947, 79-1101; amd. Sec. 1, Ch. 40, L. 1995; amd. Sec. 19, Ch. 325, L. 1995; amd. Sec. 97, Ch. 42, L. 1997; amd. Sec. 8, Ch. 48, L. 1997.

Cross-References

Warrants, Title 17, ch. 8, part 3.

17-6-213. Redemption of bonds before maturity. (1) The board of investments shall permit any school district, town, city, or county to pay and redeem one or more of its bonds held by the state for the credit of any fund under the investment administration of the board of investments at any time before maturity.

(2) In calculating the unpaid interest accrued on any bond or bonds at the time of payment and redemption, interest for a fractional month must be calculated and collected for a full month.

(3) Payment and redemption of bonds must be made at the office of the state treasurer unless the bonds by their own terms and provisions are made payable at some other place and payment at that office would be disadvantageous to the redemptioner. When bonds have been paid and redeemed, the state treasurer shall effectually cancel the bonds and the attached coupons by perforation or otherwise and mail them to the proper treasurer together with the state treasurer's receipt.

(4) This section does not authorize or permit any school district, town, city, or county to issue refunding bonds for the purpose of paying and redeeming any bond or bonds held by the state before the optional or redeemable date of the bonds or to grant the right to pay any bonds held by the state before the optional or redeemable date from the proceeds of refunding bonds.

History: En. Sec. 2, Ch. 33, L. 1907; re-en. Sec. 2202, Rev. C. 1907; amd. Sec. 91, Ch. 147, L. 1909; re-en. Sec. 1916, R.C.M. 1921; amd. Sec. 1, Ch. 70, L. 1925; amd. Sec. 1, Ch. 3, L. 1929; re-en. Sec. 1916, R.C.M. 1935; amd. Sec. 36, Ch. 326, L. 1974; R.C.M. 1947, 79-1105; amd. Sec. 218, Ch. 56, L. 2009.

Cross-References

Redemption of bonds, 7-7-2207.

Redemption of bonds — optional method, 17-5-105.

Redemption of bonds — investment of debt service fund money, 20-9-441.

17-6-214. Debt and liability free account — rules for deposits and transfers — purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the debt and liability free account.

(2) The purpose of the debt and liability free account is as follows:

(a) to pay the principal, interest, premiums, and any costs or fees associated with redeeming outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana and that are currently subject to optional redemption;

(b) to pay the principal, interest, premiums, and any costs or fees associated with defeasing outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana that are not currently subject to optional redemption;

(c) to forego or reduce the amount of an issuance of general obligation bonds paid from the general fund authorized by the legislature but not yet issued by the board of examiners prior to using funds from the account established in 17-7-209 for the same purpose;

(d) to pay in whole or in part legally resolved nonpension financial liabilities of the state of Montana;

(e) to replace federal funding that has been rescinded by the federal government from remaining funding of the American Rescue Plan Act funds;

(f) to mitigate the need for general fund supplemental appropriations for the general appropriations act; and

(g) to replace federal funds that have been reduced or rescinded by the federal government.

(3) For the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, interest income received pursuant to 17-6-202(2) is deposited into the account.

(4) Funds in the debt and liability free account are statutorily appropriated, as provided in 17-7-502, to the governor's office of budget and program planning and must be used in accordance with the requirements of this section.

(5) Funds expended from the account in this section may not be included in the calculation of annual transfers in 17-7-208.

(6) The office of budget and program planning shall prioritize the use of funds for the uses outlined in subsections (1)(a) through (1)(c).

(7) Within 15 days of the close of each fiscal quarter, the office of budget and program planning shall submit a written report to the legislative finance committee in accordance with 5-11-210 that identifies the amount and the type of debt payoff or other expenditure from the account established in this section for the previous fiscal quarter.

(8) If the unobligated ending fund balance of this account is less than $12.5 million, then up to 50% of the volatile revenue calculated pursuant to 17-1-405(4), but no more than $12.5 million per year, may be transferred by the state treasurer into this account.

History: En. Sec. 1, Ch. 48, L. 2023; amd. Sec. 23, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 23, Ch. 775, L. 2025. Amendment effective June 19, 2025.

17-6-215 through 17-6-220 reserved.

17-6-221. Handling securities — custody of mortgages and repurchase agreements. (1) Securities may be placed in safekeeping with banks subject to national supervision or Montana state examination, and a safekeeping receipt may be accepted in lieu of the actual securities.

(2) Custody and control of repurchase agreements and mortgages shall be accomplished by the receipt of a confirmation of purchase.

History: En. Sec. 440, Pol. C. 1895; re-en. Sec. 179, Rev. C. 1907; re-en. Sec. 174, R.C.M. 1921; Cal. Pol. C. Sec. 452; re-en. Sec. 174, R.C.M. 1935; amd. Sec. 8, Ch. 147, L. 1963; amd. Sec. 1, Ch. 152, L. 1971; amd. Sec. 1, Ch. 269, L. 1973; R.C.M. 1947, 79-201(8).

Cross-References

Examination and supervision by Department, 32-1-211.

17-6-222. Repealed. Sec. 1, Ch. 304, L. 1979.

History: En. Sec. 15, Ch. 70, L. 1929; re-en. Sec. 5668.33, R.C.M. 1935; amd. Sec. 38, Ch. 100, L. 1973; amd. Sec. 10, Ch. 298, L. 1973; R.C.M. 1947, 79-1215.

17-6-223 and 17-6-224 reserved.

17-6-225. Loans to petroleum tank release compensation board. (1) The board of investments may loan funds to the petroleum tank release compensation board to cover temporary cash shortfalls. The total of all loans may not exceed the greater of $15 million or

80% of the fees that the office of budget and program planning projects will be collected under 75-11-314 during the next 3 fiscal years. A loan must be amortized, based on projected fee revenue, over a period of not more than 10 years.

(2) The board shall establish the interest rate on the loan, considering the security and the term of the loan.

History: En. Sec. 1, Ch. 115, L. 1997.

17-6-226 through 16-6-229 reserved.

17-6-230. Reports on retirement system trust fund investments and benefits. (1) As soon as practical after the end of each calendar year, the board of investments shall publish a report on each retirement system trust fund invested by the board. The report may be part of an annual report required pursuant to Article VIII, section 13, of the Montana constitution or 17-5-1650 but must summarize the following with respect to each retirement system trust fund:

(a) asset allocation;

(b) past and expected investment performance;

(c) investment goals and strategies; and

(d) Montana public employees' retirement system investments and performance compared with the public employees' retirement system investments and performance in other states.

(2) The board of investments shall annually at a public meeting present the report described in subsection (1) to the public employees' retirement board provided for in 2-15-1009 and the teachers' retirement board provided for in 2-15-1010. The board shall also provide the report to the legislature pursuant to 5-11-210 and to the state administration and veterans' affairs interim committee.

History: En. Sec. 1, Ch. 285, L. 2007; amd. Sec. 4, Ch. 155, L. 2013.

17-6-231. Definitions. For the purposes of 17-6-232, 17-6-233, and this section:

(1) (a) "Material" means a risk or return regarding which there is a substantial likelihood that a reasonable investor would attach importance when:

(i) evaluating the potential financial return and financial risks of an existing or prospective investment; or

(ii) exercising, or declining to exercise, any rights appurtenant to securities.

(b) When used to qualify a risk or return, the term does not include furthering nonpecuniary, environmental, social, governance, or other similarly oriented considerations, or any portion of a risk or return that primarily relates to events that involve a high degree of uncertainty regarding what may or may not occur in the distant future and are systemic, general, or not investment-specific in nature.

(2) "Nonpecuniary" includes any action taken or factor considered by a fiduciary with any purpose to further environmental, social, governance, or other similarly oriented considerations.

(3) (a) "Pecuniary factor" means a factor that has a material effect on the financial risk or financial return of an investment based on appropriate investment horizons consistent with the plan's investment objectives and funding policy.

(b) The term does not include nonpecuniary factors.

History: En. Sec. 1, Ch. 175, L. 2023.

17-6-232. Consideration of nonpecuniary factors prohibited. (1) The evaluation by the board of investments or the evaluation or exercise of any right appurtenant to an investment must take into account only pecuniary factors.

(2) Environmental, social, governance, or other similarly oriented considerations are pecuniary factors only if they present economic risks or opportunities that qualified investment professionals would treat as material economic considerations under generally accepted investment theories. The weight given to those factors must solely reflect a prudent assessment of their impact on risk and return.

(3) The board, when considering environmental, social, governance, or other similarly oriented factors as pecuniary factors, is also required to examine the level of diversification, the degree of liquidity, and the potential risk-return in comparison with other available investment alternatives that would play a similar role in their plans' portfolios.

(4) Any pecuniary consideration of environmental, social, governance, or other similarly oriented factors must necessarily include evaluating whether greater returns can be achieved through investments that rank poorly on these factors.

History: En. Sec. 2, Ch. 175, L. 2023.

17-6-233. Voting ownership interests. (1) All shares held directly or indirectly by or on behalf of the board must be voted solely in the pecuniary interest of the beneficiaries of the funds.

(2) Voting to further nonpecuniary, environmental, social, governance, or other similarly oriented considerations is prohibited.

(3) The board may not follow the recommendations of a proxy advisory firm or other service providers unless the firm or service provider commits to follow proxy voting guidelines that are consistent with the board's obligation to act based solely on pecuniary factors unless no economically practicable alternative is available.

History: En. Sec. 3, Ch. 175, L. 2023.

17-6-234. Enforcement by attorney general. The attorney general may bring an action in the appropriate Montana district court to prevent or restrain violations of 17-6-231 through 17-6-233.

History: En. Sec. 4, Ch. 175, L. 2023.

Part 3
Montana In-State Investment

17-6-301. Short title. This part may be cited as the "Montana In-State Investment Act of 1983".

History: En. Sec. 1, Ch. 677, L. 1983.

17-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of investments created in 2-15-1808.

(2) "Clean and healthful environment" means an environment that is relatively free from pollution that threatens human health, including as a minimum, compliance with federal and state environmental and health standards.

(3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility located in Montana that has a generating capacity greater than or equal to 100 megawatts.

(4) "Department" means the department of commerce provided for in 2-15-1801.

(5) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal occupation is as an employee, officer, or partner of the enterprise.

(6) "Existing infrastructure" means public improvements, including but not limited to:

(a) drinking water systems;

(b) wastewater treatment;

(c) sanitary sewer or storm sewer systems;

(d) solid waste disposal and separation systems;

(e) roads;

(f) bridges; or

(g) any public improvements authorized by Title 7, chapter 11, part 10; Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47.

(7) "Financial institution" includes but is not limited to a state-chartered or federally chartered bank or a savings and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.

(8) "Intermediary loan" means a loan provided to a local economic development organization with a revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to programs from the

economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury.

(9) "Loan participation" means loans or portions of loans bought from a financial institution.

(10) "Local economic development organization" means:

(a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(ii) an entity certified by the department under 90-1-116; or

(iii) an entity established by a local government; and

(b) an entity actively engaged in economic development and business assistance work in the area.

(11) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana.

(12) "Long-term benefit to the Montana economy" means an activity that strengthens the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenue in the future to the people of Montana, either directly or indirectly.

(13) "Montana economy" means any business activities in the state of Montana, including those that continue existing jobs or create new jobs in Montana.

(14) "Owner" means an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451 or a public utility regulated by the public service commission in accordance with Title 69 that owns a coal-fired generating unit.

(15) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

History: En. Sec. 2, Ch. 677, L. 1983; amd. Sec. 1, Ch. 408, L. 1985; amd. Sec. 1, Ch. 124, L. 1987; amd. Sec. 57, Ch. 370, L. 1987; amd. Sec. 13, Ch. 581, L. 1987; amd. Sec. 5, Ch. 589, L. 1991; amd. Sec. 4, Ch. 549, L. 1997; amd. Sec. 4, Ch. 183, L. 2003; amd. Sec. 1, Ch. 9, L. 2011; amd. Sec. 2, Ch. 373, L. 2017; amd. Sec. 1, Ch. 419, L. 2017; amd. Sec. 1, Ch. 245, L. 2019.

17-6-303. Purpose of the coal tax trust fund. The people of Montana establish that the intent of the permanent coal tax trust fund, as created by Article IX, section 5, of the Montana constitution, is:

(1) to compensate future generations for the loss of a valuable and depletable resource and to meet any economic, social, and environmental impacts caused by coal development not otherwise provided for by other coal tax sources; and

(2) to develop a stable, strong, and diversified economy which meets the needs of Montana residents both now and in the future while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

History: En. Sec. 1, I.M. No. 95, approved Nov. 2, 1982.

Cross-References

Coal severance tax trust funds, 17-5-703.

17-6-304. Use of the coal tax trust fund for economic development. Objectives for investment of the permanent coal tax trust fund are to diversify, strengthen, and stabilize the Montana economy and to increase Montana employment and business opportunities while maintaining and improving a clean and healthful environment.

History: En. Sec. 2, I.M. No. 95, approved Nov. 2, 1982.

17-6-305. Investment of coal tax trust fund in Montana economy — report by board. (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to this section do not include investments made pursuant to 17-6-309(2). For purposes of calculating the 25% of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1). The portion of the permanent coal tax trust fund contained in portfolios formerly administered by the Montana board of science and technology development is included in the 25% of the trust fund allocated to the board for in-state investment under this section. This subsection does not prohibit the board from investing more than 25% of the permanent coal

tax trust fund in the Montana economy if it is prudent to do so and the investments will benefit the Montana economy.

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy must be considered.

(3) The legislature may provide additional procedures to implement this section.

(4) The board shall include a report on the investments made under this section as a part of the information required by 17-7-111.

History: En. Sec. 3, I.M. No. 95, approved Nov. 2, 1982; amd. Sec. 1, Ch. 338, L. 1985; amd. Sec. 6, Ch. 418, L. 1985; amd. Sec. 14, Ch. 16, L. 1991; amd. Sec. 6, Ch. 589, L. 1991; amd. Sec. 16, Ch. 787, L. 1991; amd. Sec. 21, Ch. 349, L. 1993; amd. Sec. 1, Ch. 34, L. 1995; amd. Sec. 1, Ch. 477, L. 1995; amd. Sec. 5, Ch. 549, L. 1997; amd. Sec. 8, Ch. 307, L. 2001; amd. Sec. 1, Ch. 444, L. 2007.

17-6-306. Repealed. Sec. 19, Ch. 589, L. 1991.

History: En. Sec. 3, Ch. 677, L. 1983; amd. Sec. 2, Ch. 338, L. 1985; amd. Sec. 7, Ch. 445, L. 1987; amd. Sec. 17, Ch. 787, L. 1991.

17-6-307. Repealed. Sec. 18, Ch. 581, L. 1987.

History: En. Sec. 4, Ch. 677, L. 1983.

17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (7) of this section and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer $15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) (a) Subject to subsections (5)(b) and (5)(c), the board may make working capital loans from the permanent coal tax trust fund to an owner of a coal-fired generating unit.

(b) Loans may be provided in accordance with subsection (5)(a) to an owner to finance:

(i) the everyday operations and required maintenance of a coal-fired generating unit of which an owner has a shared interest;

(ii) the purchase of an additional interest in a coal-fired generating unit of which an owner has a shared interest;

(iii) the purchase of coal to use at a coal-fired generating unit or improvements necessary to utilize coal from a different source at a coal-fired generating unit. When considering loan requests made under this subsection (5)(b)(iii), the board shall give preference to requests that

allow for utilization of coal resources located in Montana or allow for improvements to utilize coal resources located in Montana that are determined to be economically feasible.

(iv) the purchase of electric transmission lines and associated facilities of a design capacity of 500 kilovolts or more primarily used to transmit electricity generated by a coal-fired resource;

(v) costs related to decommissioning and remediation of a coal-fired generating unit or affected property to meet applicable legal obligations as defined in 75-8-103; or

(vi) any combination of subsections (5)(b)(i) through (5)(b)(v).

(c) The board may charge a working capital loan application fee of up to $500.

(6) The board may make loans from the permanent coal tax trust fund to a city, town, county, or consolidated city-county government impacted by the closure of a coal-fired generating unit to secure and maintain existing infrastructure.

(7) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(8) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund.

(9) By August 1, 2025, loans administered by funds in the permanent coal tax trust fund pursuant to 90-6-137 and 90-6-603 must be instead administered by the funds in the Montana housing trust provided for in 90-6-150, except that if not all principal of these loans has been paid, all proceeds from payment of principal of loans from the permanent coal tax trust fund must be deposited in the permanent coal tax trust fund until the principal of the loan is repaid.

History: **En. Sec. 5, Ch. 677, L. 1983; amd. Sec. 7, Ch. 418, L. 1985; amd. Sec. 3, Ch. 640, L. 1985; amd. Sec. 22, Ch. 316, L. 1989; amd. Sec. 1, Ch. 251, L. 1991; amd. Sec. 7, Ch. 589, L. 1991; amd. Secs. 2, 12, Ch. 594, L. 1991; amd. Sec. 2, Ch. 331, L. 1993; amd. Sec. 10, Ch. 559, L. 1995; amd. Secs. 6, 7, Ch. 549, L. 1997; amd. Sec. 1, Ch. 66, L. 1999; amd. Sec. 1, Ch. 160, L. 1999; amd. Sec. 4, Ch. 137, L. 2001; amd. Sec. 9, Ch. 307, L. 2001; amd. Sec. 7, Ch. 349, L. 2011; amd. Sec. 1, Ch. 213, L. 2013; amd. Sec. 1, Ch. 396, L. 2015; amd. Sec. 3, Ch. 373, L. 2017; amd. Sec. 2, Ch. 419, L. 2017; amd. Sec. 1, Ch. 190, L. 2019; amd. Sec. 2, Ch. 245, L. 2019; amd. Sec. 2, Ch. 460, L. 2019; amd. Sec. 1, Ch. 443, L. 2021; amd. Sec. 16, Ch. 774, L. 2023; amd. Sec. 24, Ch. 775, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 24, Ch. 775, L. 2025. Amendment effective June 19, 2025.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

17-6-309. Investment preferences. (1) Subject to the provisions of subsection (2), in deciding which of several investments of equal or comparable security and return are to be made when sufficient funds are not available to fund all possible investments, the board shall give preference to the business investments that:

(a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for Montana residents or in otherwise contributing to the long-term benefit of the Montana economy, including raising the per capita income of Montana jobholders;

(b) are for locally owned enterprises that are either expanding or establishing new operations;

(c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill the jobs;

(d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

(e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products; or

(f) benefit small- and medium-sized businesses as defined in rules adopted by the board.

(2) The board may make a loan to enhance economic development and create jobs in the basic sector of the economy, as defined by the board by rule, if the loan will result in the creation of a business estimated to employ at least 15 people in Montana on a permanent, full-time basis or result in the expansion of a business estimated to employ at least an additional 15 people in Montana on a permanent, full-time basis.

(3) The board may make a working capital loan to an owner of a coal-fired generating unit if the loan will prevent the elimination of jobs and provide stability in a community impacted by the operation of a coal-fired generating unit.

History: **En. Sec. 6, Ch. 677, L. 1983; amd. Sec. 2, Ch. 408, L. 1985; amd. Sec. 2, Ch. 477, L. 1995; amd. Sec. 1, Ch. 64, L. 1999; amd. Sec. 4, Ch. 373, L. 2017; amd. Sec. 1, Ch. 93, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 93, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 5, Ch. 93, L. 2025, provided: "[This act] applies to infrastructure loans made on or after [the effective date of this act] and tax credits claimed after December 31, 2025." Effective October 1, 2025.

Cross-References

Investment of public funds, Art. VIII, sec. 13, Mont. Const.

17-6-310. Repealed. Sec. 3, Ch. 46, L. 1993.

History: **(1)En. Sec. 3(3), I.M. No. 95, approved Nov. 2, 1982; (2)En. Sec. 7, Ch. 677, L. 1983; amd. Sec. 2, Ch. 124, L. 1987; amd. Sec. 8, Ch. 589, L. 1991; amd. Secs. 4, 12, Ch. 594, L. 1991; amd. Sec. 5, Ch. 12, Sp. L. January 1992; amd. Sec. 4, Ch. 354, L. 1993.**

17-6-311. Limitation on size of investments. (1) Except as provided in subsection (2) and this subsection, an investment may not be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business enterprise or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the debt incurred for the project or enterprise for the coal tax investment that was made to the business enterprise or person must be held by a commercial lender. This subsection does not:

(a) apply to a loan made pursuant to 17-6-317; or

(b) limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2).

(2) The total amount of loans made pursuant to 17-6-309(2) may not exceed $80 million, the total amount of loans made pursuant to 17-6-317 may not exceed $70 million, and a single loan may not be less than $250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed $16,666 for each job that is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

(a) the estimated number of jobs to be created by the project within a 4-year period from the time that the loan is made and the impact of the jobs on the state and the community where the project will be located;

(b) the long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees;

(c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes; and

(d) other matters that the board considers necessary.

(3) The total amount of loans made annually pursuant to 17-6-309(3) may not exceed $50 million. In determining the size of a loan, the board shall consider:

(a) the direct and indirect tax implications to the state if a coal-fired generating unit is retired prematurely;

(b) the current and projected ability of an owner to operate and maintain a coal-fired generating unit; and

(c) other matters that the board considers necessary.

History: **En. Sec. 8, Ch. 677, L. 1983; amd. Sec. 4, Ch. 640, L. 1985; amd. Sec. 3, Ch. 124, L. 1987; amd. Sec. 9, Ch. 589, L. 1991; amd. Sec. 3, Ch. 2, L. 1995; amd. Sec. 3, Ch. 477, L. 1995; amd. Sec. 1, Ch. 98, L. 1997; amd. Sec. 2, Ch. 64, L. 1999; amd. Sec. 2, Ch. 4, Sp. L. May 2000; amd. Sec. 2, Ch. 487, L. 2001; amd. Sec. 2, Ch. 444, L. 2007; amd. Sec. 2, Ch. 9, L. 2011; amd. Sec. 5, Ch. 373, L. 2017; amd. Sec. 3, Ch. 245, L. 2019; amd. Sec. 2, Ch. 93, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 93, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 5, Ch. 93, L. 2025, provided: "[This act] applies to infrastructure loans made on or after [the effective date of this act] and tax credits claimed after December 31, 2025." Effective October 1, 2025.

17-6-312. State participation in loans. (1) Subject to 17-6-311, state participation in any loan to a business enterprise, except for a loan made pursuant to 17-6-317 or guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

(2) State participation in loans to nonprofit corporations may qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to a for-profit business creating the jobs.

History: **En. Sec. 9, Ch. 677, L. 1983; amd. Sec. 4, Ch. 124, L. 1987; amd. Sec. 4, Ch. 2, L. 1995; amd. Sec. 4, Ch. 477, L. 1995; amd. Sec. 3, Ch. 4, Sp. L. May 2000; amd. Sec. 3, Ch. 487, L. 2001; amd. Sec. 3, Ch. 9, L. 2011.**

17-6-313. Prior commitment of funds. The board may authorize the commitment of funds to financial institutions pursuant to rules adopted by the board, but the determination as to credit with respect to individual investments must be made by the financial institution and the board.

History: **En. Sec. 10, Ch. 677, L. 1983; amd. Sec. 5, Ch. 124, L. 1987; amd. Sec. 4, Ch. 9, L. 2011.**

17-6-314. Rate of return. Except as provided in 17-6-317, in calculating the rate of return for any Montana investment to be made from the permanent coal tax trust fund, the board shall consider the long-term benefit to the Montana economy and the additional service fee discount provided for in 17-6-319.

History: **En. Sec. 11, Ch. 677, L. 1983; amd. Sec. 10, Ch. 589, L. 1991; amd. Sec. 4, Ch. 4, Sp. L. May 2000.**

17-6-315. Repealed. Sec. 19, Ch. 589, L. 1991.

History: **En. Sec. 12, Ch. 677, L. 1983; amd. Sec. 5, Ch. 640, L. 1985; amd. Sec. 1, Ch. 102, L. 1987.**

17-6-316. Economic development loan — infrastructure tax credit. (1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure authorized under 7-15-4288(4) that allows the location or creation of a business in Montana. The loan must be made to a local government or an Indian tribal government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government or Indian tribal government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years.

(4) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the infrastructure use fee as a deduction in computing the tax imposed under Title 15, chapter 30 or 31.

History: **En. Sec. 5, Ch. 2, L. 1995; En. Sec. 5, Ch. 477, L. 1995; amd. Sec. 7, Ch. 477, L. 1995; amd. Sec. 4, Ch. 359, L. 2019; amd. Sec. 3, Ch. 93, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 93, L. 2025. Amendment effective October 1, 2025.

Applicability: Section 5, Ch. 93, L. 2025, provided: "[This act] applies to infrastructure loans made on or after [the effective date of this act] and tax credits claimed after December 31, 2025." Effective October 1, 2025.

17-6-317. Participation by private financial institutions — rulemaking. (1) (a) The board may jointly participate with private financial institutions in making loans to a business enterprise if the loan will:

(i) result in the creation of a business estimated to employ at least 10 people in Montana on a permanent, full-time basis;

(ii) result in the expansion of a business estimated to employ at least an additional 10 people in Montana on a permanent, full-time basis; or

(iii) prevent the elimination of the jobs of at least 10 Montana residents who are permanent, full-time employees of the business.

(b) Loans under this section may be made only to:

(i) business enterprises that are producing or will produce value-added products or commodities; or

(ii) owners of coal-fired generating units for the purposes established in 17-6-308(5).

(c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under 17-6-318.

(2) A loan made pursuant to this section may not exceed 1% of the coal severance tax permanent fund and must comply with each of the following requirements:

(a) (i) The business enterprise seeking a loan must have a cash equity position equal to at least 25% of the total loan amount.

(ii) A participating private financial institution may not require the business to have an equity position greater than 50% of the total loan amount.

(iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a participating private financial institution, then the additional security or guarantees must be proportional to the amount loaned by all participants, including the board of investments.

(b) The board shall provide 75% of the total loan amount.

(c) The term of the loan may not exceed 15 years.

(d) The board shall charge interest at the following annual rate:

(i) 2% for the first 5 years if 15 or more jobs are created or retained;

(ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;

(iii) 6% for the second 5 years; and

(iv) the board's posted interest rate for the third 5 years, but not to exceed 10% a year.

(e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the board receives certification that the required number of jobs has been created or as provided in subsection (2)(e)(ii). If the board disburses loan proceeds prior to creation of the required jobs, the loan must bear interest at the board's posted rate.

(ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination of jobs, the board shall require the submission of financial data that allows the board to determine if the loan and interest rate will in fact prevent the elimination of jobs.

(f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of required jobs, the board may apply a graduated scale to increase the interest rate, not to exceed the board's posted rate.

(g) For purposes of calculating job creation or retention requirements, the board shall use the state's average weekly wage, as defined in 39-71-116, multiplied by the number of jobs required. This calculated number is the minimum aggregate salary threshold that is required to be eligible for a reduced interest rate. If individual jobs created pay less than the state's average weekly wage, the borrower shall create more jobs to meet the minimum aggregate salary threshold. If fewer jobs are created or retained than required in subsection (2)(d)(i) or (2)(d)(ii) but aggregate salaries meet the minimum aggregate salary threshold, the borrower is eligible for the reduced interest rate. A job paying less than the minimum wage, provided for in 39-3-409, may not be included in the required number of jobs.

(h) (i) A participating private financial institution may charge interest in an amount equal to the national prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6% or greater than 12%.

(ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to an adjustable or fixed rate on terms acceptable to the borrower and lender.

(iii) A participating private financial institution, or lead private financial institution if more than one is participating, may charge a 0.5% annual service fee.

(i) The business enterprise may not be charged a loan prepayment penalty.

(j) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation provisions based on the loan percentage of the board and each participating private lender.

(3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion of the loan must be made based on the percentage of completion to ensure that the construction portion of the loan is advanced prior to completion of the project.

(4) A private financial institution shall participate in a loan made pursuant to this section to the extent of 85% of its lending limit or 25% of the loan, whichever is less. However, the board's participation in the loan must be 75% of the loan amount.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), a business enterprise receiving a loan under the provisions of this section may not pay bonuses or dividends to investors until the loan has been paid off, except that incentives may be paid to employees for achieving performance standards or goals.

(b) A business enterprise for the production of ethanol to be used as provided in Title 15, chapter 70, part 5, may pay dividends to investors and bonuses to employees if the business enterprise is current on its loan payments and has available funds equal to at least 15% of the outstanding principal balance of the loan.

(c) A public utility may pay dividends to investors and bonuses to employees if the public utility is current on its loan payments and has available funds equal to at least 15% of the outstanding principal balance of the loan.

(6) The board may adopt rules that it considers necessary to implement this section.

History: En. Sec. 1, Ch. 4, Sp. L. May 2000; amd. Sec. 1, Ch. 289, L. 2001; amd. Sec. 1, Ch. 26, L. 2005; amd. Sec. 7, Ch. 452, L. 2005; amd. Sec. 18, Ch. 100, L. 2007; amd. Sec. 6, Ch. 373, L. 2017; amd. Sec. 4, Ch. 245, L. 2019; amd. Sec. 25, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 25, Ch. 775, L. 2025. Amendment effective June 19, 2025.

17-6-318. Job credit interest rate reduction for business loan participation. (1) A borrower who uses the proceeds of a business loan participation funded under the provisions of this part to create jobs employing Montana residents is entitled to a job credit interest rate reduction for each job created to employ a Montana resident. A borrower who uses the proceeds of a loan made pursuant to 17-6-309(2) to create jobs is entitled to a job credit interest rate reduction for each job created. The job credit interest rate reduction is equal to 0.05% for each job created to employ a Montana resident, up to a maximum interest rate reduction of 2.5%.

(2) If the salary or wage of the job created:

(a) exceeds the state's average weekly wage, as defined in 39-71-116, the amount of the job credit interest rate reduction may be increased proportionately for each increment of 25% above the state's average weekly wage to a maximum of two times the state's average weekly wage; or

(b) is less than the state's average weekly wage, as defined in 39-71-116, the job credit interest rate reduction is reduced proportionately for each 25% increment below the state's average weekly wage.

(3) A job credit interest rate reduction may not be allowed for a job created by the borrower using the proceeds of the loan for which the salary or wage is less than the minimum wage provided for in 39-3-409.

(4) A job credit may not be given unless one whole job is created.

(5) To qualify for the job credit interest rate reduction, the borrower shall provide satisfactory evidence of the creation of jobs and shall make a written application to the board through its financial institution or, in the case of a loan made pursuant to 17-6-309(2), shall make a written application directly to the board.

History: En. Sec. 17, Ch. 589, L. 1991; amd. Sec. 2, Ch. 98, L. 1997; amd. Sec. 3, Ch. 64, L. 1999; amd. Sec. 4, Ch. 487, L. 2001; amd. Sec. 2, Ch. 26, L. 2005.

17-6-319. Incentive to financial institution for small business loan participation. A financial institution that originates a small business loan no larger than 0.05% of the balance of the Montana permanent coal tax trust fund at the end of the last-completed fiscal year is entitled to an additional service fee in the form of a discount equal to 0.5% of the board's participation in the loan. The board shall consider the additional service fee discount to the financial institution as part of the rate of return provided in 17-6-314.

History: En. Sec. 18, Ch. 589, L. 1991.

17-6-320. Loan recipients — notice. (1) If an owner of a coal-fired generating unit receives a loan in accordance with this part, the owner shall provide the board of investments and the governor of Montana with a minimum of 90 days' notice prior to filing for bankruptcy, reorganization, or other insolvency proceeding or prior to a merger, sale, or transfer, by operation of law or otherwise.

(2) A successor to the owner, whether pursuant to a bankruptcy, reorganization, or other insolvency proceeding or pursuant to a merger, sale, or transfer, by operation of law or otherwise, shall perform and satisfy all obligations of the owner pursuant to this part in the same manner and to the same extent as the owner.

History: En. Sec. 1, Ch. 373, L. 2017.

17-6-321. Audits. The board's books and records related to in-state investments must be audited once each fiscal year by or at the direction of the legislative auditor. The actual cost of this audit must be paid from the board's funds.

History: En. Sec. 13, Ch. 677, L. 1983; amd. Sec. 3, Ch. 308, L. 1985; amd. Sec. 45, Ch. 483, L. 2001; amd. Sec. 5, Ch. 487, L. 2001.

Cross-References

Audit costs and contracts, Title 5, ch. 13, part 4.
Department of Administration — bank examiners, 32-1-211.

17-6-322. Report. The board shall include in its annual report a section on the results of the previous year's operations of the investment in the Montana economy from the permanent coal tax trust fund, as required in 17-6-305, including:

(1) financial statements audited by independent auditors;

(2) a summary report of loan activity; and

(3) a comparison of the performance of the investments in the Montana economy in relation to the purposes contained in 17-6-303.

History: En. Sec. 14, Ch. 677, L. 1983; amd. Sec. 1, Ch. 264, L. 1987; amd. Sec. 1, Ch. 94, L. 1989; amd. Sec. 11, Ch. 589, L. 1991.

Cross-References

General duties of boards, 37-1-131.

17-6-323. Repealed. Sec. 3, Ch. 94, L. 1989.

History: En. Sec. 15, Ch. 677, L. 1983.

17-6-324. Rulemaking authority. (1) The board may adopt rules to implement the provisions of this part and 17-6-211(2). Rules adopted by the board may include:

(a) definitions of small- and medium-sized businesses;

(b) a method of committing funds to financial institutions, including guidelines for lead private financial institutions if a consortium of private financial institutions is participating in a loan made pursuant to 17-6-317;

(c) guidelines for graduation clauses for refinancing and early payment of loans made pursuant to 17-6-317;

(d) types of service fees; and

(e) types of investments to be made.

(2) The board may also adopt procedural rules to govern its proceedings.

History: En. Sec. 16, Ch. 677, L. 1983; amd. Sec. 8, Ch. 418, L. 1985; amd. Sec. 5, Ch. 4, Sp. L. May 2000.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

17-6-325. Preference of Montana labor. Any contract to construct a project financed pursuant to this part must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. "Substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

History: En. Sec. 3, Ch. 653, L. 1985; amd. Sec. 7, Ch. 561, L. 1987.

17-6-326 through 17-6-330 reserved.

17-6-331. Establishment of a Montana economic development fund. A Montana economic development fund is created. A portion of the interest income from the permanent coal tax trust fund created in 17-6-203(6) shall be deposited in the fund as determined by the legislature. Monies, if any, appropriated by the legislature from the economic development fund shall be used only for programs consistent with the objectives in 17-6-304.

History: En. Sec. 4, I.M. No. 95, approved Nov. 2, 1982; amd. Sec. 8, Ch. 445, L. 1987.

17-6-332 through 17-6-339 reserved.

17-6-340. Repealed. Sec. 10, Ch. 17, L. 2013.
History: En. Sec. 4, Ch. 418, L. 2001; amd. Sec. 7, Ch. 1, Sp. L. May 2007; amd. Sec. 11, Ch. 377, L. 2009.

17-6-341 through 17-6-344 reserved.

17-6-345. Intermediary relending program. (1) The board may set aside an amount, not to exceed $10 million, from the in-state investment percentage provided for in 17-6-305 for the purpose of creating an intermediary relending program.

(2) Intermediary loans may be made to board-approved local economic development organizations with revolving loan programs.

(3) Each intermediary loan made pursuant to subsection (2) may not exceed $500,000.

(4) An intermediary loan made under this section may be offered only to an applicant that will pledge and use the loan funds as matching funds for the U.S. department of agriculture rural development loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury.
History: En. Sec. 1, Ch. 183, L. 2003; amd. Sec. 1, Ch. 191, L. 2019.

17-6-346. Interest rates and repayment of intermediary loan — terms. (1) The interest rate on an intermediary loan made pursuant to 17-6-345 may not exceed 2% a year for a period of 30 years.

(2) For the first 3 years, repayment on the intermediary loan is of the interest only, and for the remainder of the term of the intermediary loan, the repayment is principal and interest.
History: En. Sec. 2, Ch. 183, L. 2003.

17-6-347. Purchase of seasoned or mature loans by board. The board may purchase a portion of a seasoned or mature loan from a local economic development organization's revolving loan program.
History: En. Sec. 3, Ch. 183, L. 2003.

Part 4
Microbusiness Development Act

17-6-401. Short title. This part may be cited as the "Microbusiness Development Act".
History: En. Sec. 1, Ch. 602, L. 1991.

17-6-402. Legislative findings and purpose. (1) The legislature finds and declares that:

(a) it is the policy of the state to foster and encourage economic development within the state in order to promote the general welfare of the people;

(b) no program exists by which the state encourages and assists in the creation, development, and financing of businesses with fewer than 10 full-time equivalent employees and gross revenues of less than $1 million a year, which represent a significant component of and potential for growth in the state's economy; and

(c) neither the public sector nor the private sector currently satisfies the financial needs of these businesses.

(2) The purpose of this part is to create a program to encourage and assist in the creation, development, and financing of businesses with fewer than 10 full-time equivalent employees and gross revenues of less than $1 million a year.

(3) The process of certification of microbusiness development corporations and selection among competing proposals for development loans must be open and competitive and allow access to the competition to all interested communities and organizations and must provide for selecting for award of development loans those projects that are best qualified according to the criteria established under 17-6-406 through 17-6-408.
History: En. Sec. 2, Ch. 602, L. 1991; amd. Sec. 1, Ch. 31, L. 2007.

17-6-403. Definitions. As used in this part, the following definitions apply:

(1) "Certified microbusiness development corporation" means a microbusiness development corporation certified pursuant to 17-6-408.

(2) "Department" means the department of commerce provided for in 2-15-1801.

(3) "Development loan" means money loaned to a certified microbusiness development corporation by the department for the purpose of making microbusiness loans under the provisions of this part.

(4) "Microbusiness development corporation" means a nonprofit corporation organized and existing under the laws of the state to provide training, technical assistance, and access to capital for the startup or expansion of qualified microbusinesses.

(5) "Microbusiness loan" means a loan made from or guaranteed by a revolving loan fund contributed to by the microbusiness finance program.

(6) "Program" means the microbusiness finance program established in 17-6-406.

(7) "Qualified microbusiness" means a business enterprise located in the state that:

(a) produces goods or provides services and has fewer than 10 full-time equivalent employees and annual gross revenue of less than $1 million; or

(b) produces energy using an alternative renewable energy source as defined in 15-6-225.

(8) "Revolving loan fund" means a fund required to be established by a certified microbusiness development corporation that receives a development loan.

History: En. Sec. 3, Ch. 602, L. 1991; amd. Sec. 17, Ch. 591, L. 2001; amd. Sec. 3, Ch. 351, L. 2003; amd. Secs. 5, 15, Ch. 405, L. 2003; amd. Sec. 2, Ch. 31, L. 2007.

17-6-404 and 17-6-405 reserved.

17-6-406. Microbusiness finance program — powers and duties of department. There is a microbusiness finance program administered by the department. The department shall adopt rules to implement the provisions of this part, including but not limited to:

(1) establishing criteria and procedures for certifying microbusiness development corporations;

(2) establishing criteria and procedures to select from competing development loan applications and to award development loans to certified microbusiness development corporations;

(3) establishing criteria and procedures to be followed by certified microbusiness development corporations that administer revolving loan funds supported by the program;

(4) determining the amount and method of computation and payment of interest rates charged to recipients of development loans and specifying amortization schedules and other terms and conditions for development loans as may be necessary;

(5) establishing criteria for determining nonperformance and declaring default in the administration of development loans and requiring the refund of defaulted development loan funds to the microbusiness development loan account;

(6) establishing criteria for satisfactory performance in development loan administration to determine eligibility for renewal of development loans or for additional development loans;

(7) establishing guidelines for maximum and minimum interest rates that may be charged by certified microbusiness development corporations on microbusiness loans; and

(8) dividing the state into not more than 12 multicounty service regions within each of which not more than one microbusiness development corporation may be funded at any time. However, a corporation that is funded as a statewide microbusiness development corporation under 17-6-408 may offer specialized services to constituents within regions or within an Indian reservation having a funded regional microbusiness development corporation.

History: En. Sec. 4, Ch. 602, L. 1991; amd. Sec. 1, Ch. 88, L. 1993; amd. Sec. 9, Ch. 512, L. 1999.

17-6-407. Microbusiness development loan account — criteria — limitations. (1) (a) There is in the state special revenue fund a microbusiness development loan account into which funds allocated for that purpose and money received in repayment of the principal of development loans must be deposited.

(b) The department may make development loans from the account to a certified microbusiness development corporation.

(2) There is an economic development state special revenue account created in 90-1-205 in which the following money must be deposited:

(a) all interest received on development loans received directly from microbusiness development corporations;

(b) service charges or fees received from certified microbusiness development corporations;

(c) grants, donations, and private or public income; and

(d) all interest earned on money in the account and interest earned on money in the account provided for in subsection (1)(a).

(3) Subject to subsection (1), a certified microbusiness development corporation that receives a development loan may apply for an additional loan if the applicant meets the performance criteria established by the department.

(4) To establish the criteria for making development loans, the department shall consider:

(a) the plan for providing services to microbusinesses;

(b) the scope of services to be provided by the certified microbusiness development corporation;

(c) the geographic representation of all regions of the state, including urban, rural, and tribal communities;

(d) the plan for providing service to minorities, women, and low-income persons;

(e) the ability of the corporation to provide business training and technical assistance to microbusiness clients;

(f) the ability of the corporation, with a plan, to:

(i) monitor and provide financial oversight of recipients of microbusiness loans;

(ii) administer a revolving loan fund; and

(iii) investigate and qualify financing proposals and to service credit accounts;

(g) sources and sufficiency of operating funds for the certified microbusiness development corporation; and

(h) the intent of the corporation, with a plan and written indications of local institutional support, to provide services to a designated multicounty region of the state.

(5) Development loan funds may be used by a certified microbusiness development corporation to:

(a) satisfy matching fund requirements for other state, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified microbusiness development corporation's ability to provide and administer loans, technical assistance, or management training to microbusinesses;

(b) establish a revolving loan fund from which the certified microbusiness development corporation may make loans to qualified microbusinesses, provided that a single loan does not exceed $100,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share does not exceed $100,000;

(c) establish a guarantee fund from which the certified microbusiness development corporation may guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may not exceed $100,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share may not exceed $100,000.

(6) Development loan funds may not be:

(a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(b) used to:

(i) refinance a nonperforming loan held by a financial institution; or

(ii) pay the operating costs of a certified microbusiness development corporation. However, interest income earned from the proceeds of a development loan may be used to pay operating expenses.

(7) Certified microbusiness development corporations are required to contribute cash from other sources to leverage and secure development loans from the program. Contributions provided by the corporation must be on a ratio of at least $1 from other sources for each $6 from the program. These contributions may come from a public or private source other than the program and may be in the form of equity capital, loans, or grants.

(8) Development loans must be made pursuant to a development loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, be

callable, and contain other terms and conditions considered appropriate by the department and that are consistent with the purposes of and with rules promulgated to implement this part.

(9) Each certified microbusiness development corporation that receives a development loan under this part shall provide the department with an annual audit from an independent certified public accountant. The audit must cover all of the microbusiness development corporation's activities and must include verification of compliance with requirements specific to the microbusiness program.

(10) A certified microbusiness development corporation that is in default for nonperformance under rules established by the department may be required to refund the outstanding balance of development loans awarded prior to the default declaration. A development loan is secured by a first lien on all funds and all receivables administered under the authority of the microbusiness development act by the corporation receiving the loan.

History: En. Sec. 5, Ch. 602, L. 1991; amd. Sec. 2, Ch. 88, L. 1993; amd. Sec. 1, Ch. 413, L. 1995; amd. Sec. 10, Ch. 512, L. 1999; amd. Sec. 1, Ch. 521, L. 1999; amd. Sec. 25, Ch. 130, L. 2005; amd. Sec. 1, Ch. 204, L. 2005; amd. Sec. 3, Ch. 31, L. 2007; amd. Sec. 2, Ch. 636, L. 2023.

17-6-408. Certification of microbusiness development corporations. The department may certify:

(1) a microbusiness development corporation when it determines that the corporation:

(a) has developed a viable plan for providing training, access to financing, and technical assistance for qualified microbusinesses;

(b) has broad-based community support in a designated multicounty region of the state, as reflected, for example, by the membership of its board of directors; and

(c) has an adequate source of operating capital; or

(2) a statewide microbusiness development corporation when the department determines that the corporation meets the conditions under subsections (1)(a) and (1)(c) and, in addition:

(a) has a viable plan to provide specialized services to constituents throughout the state or within at least four Indian reservations in Montana; and

(b) does not preempt or duplicate efforts of microbusiness development corporations within local communities.

History: En. Sec. 6, Ch. 602, L. 1991; amd. Sec. 3, Ch. 88, L. 1993; amd. Sec. 11, Ch. 512, L. 1999.

17-6-409. Authority to accept funds — funding authorization. The department may accept grants, donations, and other private and public income, including payments of interest on loans made by the department under the provisions of this part and fees charged by the department. The department shall deposit all money received under this section in the economic development state special revenue account established in 90-1-205.

History: En. Sec. 8, Ch. 602, L. 1991; amd. Sec. 23, Ch. 509, L. 1995; amd. Sec. 3, Ch. 636, L. 2023.

17-6-410. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to microbusiness development pursuant to this part.

History: En. Sec. 1, Ch. 442, L. 2025.

Compiler's Comments

Effective Date: Section 12, Ch. 442, L. 2025, provided: "[This act] is effective July 1, 2025."

17-6-411. Repealed. Sec. 6, Ch. 351, L. 2003.

History: En. Sec. 7, Ch. 602, L. 1991; amd. Sec. 2, Ch. 413, L. 1995.

Part 5
Job Investment Act
(Repealed)

17-6-501. Repealed. Sec. 12, Ch. 307, L. 2001.

History: En. Sec. 1, Ch. 559, L. 1995.

17-6-502. Repealed. Sec. 12, Ch. 307, L. 2001.

History: En. Sec. 2, Ch. 559, L. 1995.

17-6-503. Repealed. Sec. 12, Ch. 307, L. 2001.

History: En. Sec. 3, Ch. 559, L. 1995; amd. Sec. 8, Ch. 549, L. 1997.

17-6-504. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 4, Ch. 559, L. 1995.

17-6-505. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 5, Ch. 559, L. 1995.

17-6-506 through 17-6-508 reserved.

17-6-509. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 6, Ch. 559, L. 1995; amd. Sec. 9, Ch. 549, L. 1997.

17-6-510. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 7, Ch. 559, L. 1995; amd. Sec. 10, Ch. 549, L. 1997.

17-6-511. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 8, Ch. 559, L. 1995; amd. Sec. 41, Ch. 19, L. 1999.

17-6-512. Repealed. Sec. 12, Ch. 307, L. 2001.
History: En. Sec. 9, Ch. 559, L. 1995.

Part 6
Montana Tobacco Settlement Trust Fund

17-6-601. Establishment — purpose. A Montana tobacco settlement trust fund, as provided for in Article XII, section 4, of the Montana constitution, is established to provide a permanent source of revenue to fund the costs that the state incurs in:

(1) programs for tobacco disease prevention; and

(2) providing benefits, services, or coverage of health care needs.

History: En. Sec. 1, Ch. 467, L. 2001.

17-6-602. Definitions. As used in this part, the following definitions apply:

(1) "Benefits, services, or coverage of health care needs" means the provision of health care to persons by the state through any program of benefits, services, or coverage, including income tax incentives.

(2) "Health care" has the meaning provided in 50-16-504.

(3) (a) "Programs for tobacco disease prevention" means programs of services administered by the state for the purposes of informing individuals of the health risks of tobacco use and exposure to secondhand tobacco smoke, assisting persons in the avoidance of tobacco products use, and assisting individuals in cessation of tobacco use.

(b) Programs for tobacco disease prevention include:

(i) community-based education programs;

(ii) American Indian community tobacco education programs;

(iii) general public awareness and education programs;

(iv) tobacco cessation services;

(v) chronic disease programs;

(vi) a tobacco use resource center;

(vii) special education and cessation programs to reach youth and women of childbearing age;

(viii) smokeless tobacco user programs; and

(ix) advertising issue programs.

(4) "Tobacco products" means a substance intended for human use that contains tobacco and includes but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral or nasal cavity.

(5) "Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII, section 4, of the Montana constitution and implemented through this part.

History: En. Sec. 2, Ch. 467, L. 2001; amd. Sec. 1, I.M. No. 146, approved Nov. 5, 2002; amd. Sec. 1, Ch. 283, L. 2007.

17-6-603. Montana tobacco settlement trust fund — state special revenue fund account. (1) Nine-tenths of the interest and income derived from the trust fund on or after January 1, 2001, must be deposited in an account in the state special revenue fund and is

subject to appropriation in accordance with subsection (3). One-tenth of the interest and income derived from the trust fund must remain in the trust fund.

(2) In addition to the money required to be deposited in the trust fund as principal, the legislature may deposit additional money in the trust fund as principal.

(3) The legislature shall appropriate money from the state special revenue fund account provided for in subsection (1) for programs for tobacco disease prevention and for state programs that provide benefits, services, or coverage of health care needs.

(4) The money appropriated under this section may not be used to replace state or federal money used to fund programs for tobacco disease prevention or state programs in existence on December 31, 1999, that provide benefits, services, or coverage of health care needs.

History: En. Sec. 3, Ch. 467, L. 2001.

Cross-References

Fund structure, 17-2-102.

17-6-604 and 17-6-605 reserved.

17-6-606. Tobacco settlement accounts — purpose — uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention and other health and support services designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco;

(c) provide funds for the children's health insurance program; and

(d) provide assistance to children and adults who are aged, blind, or disabled.

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs—August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only:

(a) for matching funds to secure the maximum amount of federal funds for:

(i) the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;

(ii) home visiting through the maternal, infant, and early childhood program established in 42 U.S.C. 711 or Title IV-E prevention services;

(iii) the medicaid section 1115 waiver 0148.R07.00 for Montana residents who are elderly or physically disabled; and

(iv) the medicaid section 1115 waiver 0208.R07.00 to provide home and community-based services for individuals with developmental disabilities; and

(b) to fund services for infants and toddlers with disabilities provided for in 34 CFR 303.13 and through the department of public health and human services' family education support program.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention and for the programs referred to in the subsection establishing the account.

(6) Programs funded under this section that are private in nature may be funded through contracted services.

History: En. Sec. 2, I.M. No. 146, approved Nov. 5, 2002; amd. Sec. 1, Ch. 608, L. 2003; amd. Sec. 2, Ch. 283, L. 2007; amd. Sec. 10, Ch. 486, L. 2009; amd. Sec. 2, Ch. 63, L. 2015; amd. Sec. 1, Ch. 198, L. 2025; amd. Sec. 1, Ch. 496, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 1, Ch. 198, L. 2025. Amendment effective April 17, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 496, L. 2025. Amendment effective October 1, 2025.

17-6-607 through 17-6-609 reserved.

17-6-610. Repealed. Sec. 2, Ch. 198, L. 2025.

History: En. Sec. 3, I.M. No. 146, approved Nov. 5, 2002.

Part 7
Montana In-State Investment in Electrical Generation Facilities (Void)

17-6-701. Void. I.R. No. 117, Nov. 5, 2002.

History: En. Sec. 1, Ch. 577, L. 2001.

17-6-702. Void. I.R. No. 117, Nov. 5, 2002.

History: En. Sec. 2, Ch. 577, L. 2001.

17-6-703. Void. I.R. No. 117, Nov. 5, 2002.

History: En. Sec. 3, Ch. 577, L. 2001.

17-6-704. Void. I.R. No. 117, Nov. 5, 2002.

History: En. Sec. 4, Ch. 577, L. 2001.

17-6-705. Void. I.R. No. 117, Nov. 5, 2002.

History: En. Sec. 5, Ch. 577, L. 2001.

Part 8
Montana Housing Infrastructure Revolving Loan Fund

17-6-801. Montana housing infrastructure revolving loan fund account. (1) There is a Montana housing infrastructure revolving loan fund account within the state special revenue fund type established in 17-2-102 to the credit of the board of investments. Money deposited in the account established in this section must be invested by the board of investments as provided by law. All interest and income earned on the account must be retained in the account.

(2) The principal of the account may only be appropriated by a vote of two-thirds of the members of each house of the legislature.

History: En. Sec. 10, Ch. 774, L. 2023; amd. Sec. 1, Ch. 684, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 684, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 6, Ch. 684, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to interest and income earned on the account provided for in 17-6-801 since June 14, 2023."

17-6-802. Purpose. The purpose of the loans made and the bonds or other securities issued and purchased pursuant to this part are:

(1) to increase home ownership and provide more long-term rental opportunity;

(2) to increase housing supply and offer diverse housing types to meet the needs of population growth; and

(3) to create partnerships between the state, local governments, private sector developers, and applicants for residential development to finance necessary infrastructure for housing.

History: En. Sec. 11, Ch. 774, L. 2023.

17-6-803. Terms. The total amount of loans made to an entity for an infrastructure project pursuant to 17-6-805(1) may not exceed:

(1) $1 million; or

(2) 50% of the projected project cost.

History: En. Sec. 12, Ch. 774, L. 2023.

17-6-804. Eligibility — priority. (1) For the costs of an infrastructure project to be eligible to be paid by the proceeds of a loan or bonds or other securities of an eligible government unit as defined in 17-5-1604, the infrastructure project must provide for residential development at a minimum gross density of 10 units for each acre.

(2) General fund transfers in the account created in 17-6-801 pursuant to section 4, Chapter 684, Laws of 2025, may be used for eligible infrastructure projects for residential development at a minimum gross density of three units for each acre.

History: En. Sec. 13, Ch. 774, L. 2023; amd. Sec. 2, Ch. 684, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 684, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 6, Ch. 684, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to interest and income earned on the account provided for in 17-6-801 since June 14, 2023."

17-6-805. Financing — deed restrictions. (1) The board of investments may make loans from the account established in 17-6-801 to an eligible government unit as defined in 17-5-1604 or an applicant for residential development to cover the costs of demolition or expanding or extending water, wastewater, storm water, street, road, curb, gutter, and sidewalk infrastructure to serve new or rehabilitated residential development.

(2) The board of investments may purchase up to 50% of a bond or other security issued in accordance with state law by an eligible government unit as defined in 17-5-1604 to cover all or a portion of costs of expanding or extending water, wastewater, storm water, street, road, curb, gutter, and sidewalk infrastructure to serve new or rehabilitated residential development at an interest rate to be determined by the board of investments as an investment of the account established in 17-6-801.

(3) The board of investments shall:

(a) establish the terms and conditions of the loan, including the interest rate of the loan, with a term not to exceed 20 years;

(b) if an eligible government unit is the entity seeking a loan or issuing a bond or other security, require that the eligible government unit waive all impact fees for the developer or the amount of impact fees up to the amount of the loan or bond or other security, whichever amount is smaller;

(c) if an applicant for residential development is the entity seeking a loan, require that the applicant pay all impact fees due to the local government or the amount of impact fees up to the amount of the loan, whichever amount is smaller; and

(d) set policy requiring that housing built using infrastructure funded in part by a security pursuant to this section must provide for provisions to preserve long-term affordability of the housing that runs with the property for the term of the security.

(4) The board of investments shall include the amounts loaned and the status of all loans in the report required in 17-5-1650.

(5) The board of investments may use the account established in 17-6-801 to secure any portion of bonds in lieu of a pledge of the issuer's revolving fund.

(6) The board of investments may use interest income from the fund established in 17-6-801 to finance residential ownership of mobile home parks or other multifamily housing.

History: En. Sec. 14, Ch. 774, L. 2023; amd. Sec. 3, Ch. 684, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 684, L. 2025. Amendment effective May 13, 2025.

Retroactive Applicability: Section 6, Ch. 684, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to interest and income earned on the account provided for in 17-6-801 since June 14, 2023."

CHAPTER 7
BUDGETING AND APPROPRIATIONS

Part 1 — Budget Systems and Program Plans

17-7-101. Short title.
17-7-102. Definitions.
17-7-103. Governor chief budget officer — appointment of budget director.
17-7-104. Repealed.
17-7-105. Repealed.
17-7-106. Repealed.

17-7-107 through 17-7-110 reserved.
17-7-111. Preparation of state budget — agency program budgets — form distribution and contents.
17-7-112. Submission deadlines — budgeting schedule.
17-7-113. Inquiries and investigations by budget director.
17-7-114. Repealed.
17-7-115 through 17-7-120 reserved.
17-7-121. Preliminary budget preparation and submission to governor and governor-elect.
17-7-122. Preparation of budget.
17-7-123. Form of executive budget.
17-7-124. Additional budget data.
17-7-125 through 17-7-129 reserved.
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Receipt and transmission of donations from sale of collegiate license plates, 61-3-465, 61-3-467.

Part 1
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General appropriation bills, Art. V, sec. 11(4), Mont. Const.
No appropriation to private sector, Art. V, sec. 11(5), Mont. Const.
State to have balanced budget, Art. VIII, sec. 9, Mont. Const.
Requirement of fiscal notes with committee reports, 5-4-201.
Budget amendments, 5-12-102, 5-12-401.
Fiscal Analyst to analyze executive budget, 5-12-302.
Budget systems of counties, cities, and towns, Title 7, ch. 6.
Dedication of state revenue, Title 17, ch. 1, part 5.

17-7-101. Short title. This part shall be known and may be cited as the "Budget Act".

History: En. Sec. 1, Ch. 205, L. 1919; re-en. Sec. 294, R.C.M. 1921; re-en. Sec. 294, R.C.M. 1935; amd. Sec. 29, Ch. 326, L. 1974; R.C.M. 1947, 79-1001.

17-7-102. *(Temporary)* **Definitions.** As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(b) The term does not include:

(i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

(ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in 75-11-521 are not met.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 16% of all general revenue appropriations in the second year of the biennium.

(7) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(8) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(9) "General revenue appropriations" means appropriations from the general fund and the school equalization and property tax reduction account in 20-9-336.

(10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(11) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(12) "Operating reserve" means an amount equal to 8.3% of all general revenue appropriations in the second year of the biennium.

(13) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(14) "Program" means a principal organizational or budgetary unit within an agency.

(15) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(16) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges supervised and coordinated by the board of regents pursuant to 20-15-103. *(Terminates June 30, 2028—sec. 11, Ch. 269, L. 2015.)*

17-7-102. *(Effective July 1, 2028)* **Definitions.** As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 16% of all general revenue appropriations in the second year of the biennium.

(7) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(8) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(9) "General revenue appropriations" means appropriations from the general fund and the school equalization and property tax reduction account in 20-9-336.

(10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(11) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(12) "Operating reserve" means an amount equal to 8.3% of all general revenue appropriations in the second year of the biennium.

(13) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(14) "Program" means a principal organizational or budgetary unit within an agency.

(15) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(16) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges supervised and coordinated by the board of regents pursuant to 20-15-103.

History: **En. 79-1012.1 by Sec. 1, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.1; amd. Sec. 1, Ch. 596, L. 1983; amd. Sec. 5, Ch. 787, L. 1991; amd. Sec. 2, Ch. 12, Sp. L. November 1993; amd. Sec. 7, Ch. 308, L. 1995; amd. Sec. 5, Ch. 347, L. 1997; amd. Sec. 2, Ch. 607, L. 2003; amd. Sec. 2, Ch. 319, L. 2007; amd. Sec. 11, Ch. 486, L. 2009; amd. Sec. 18, Ch. 489, L. 2009; amd. Sec. 1, Ch. 394, L. 2011; amd. Sec. 1, Ch. 269, L. 2015; amd. Sec. 2, Ch. 429, L. 2017; amd. Sec. 4, Ch. 351, L. 2021; amd. Sec. 18, Ch. 722, L. 2023; amd. Sec. 4, Ch. 738, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 738, L. 2025. Amendment effective June 30, 2025.

17-7-103. Governor chief budget officer — appointment of budget director. (1) The governor shall be the chief budget officer of the state and shall appoint a budget director who shall hold office at the pleasure of the governor and perform the duties assigned by law or by the governor.

(2) The budget director may appoint a chief assistant and may employ such other personnel as may be necessary to carry out the provisions of this chapter.

History: (1)En. Sec. 1, Ch. 158, L. 1959; amd. Sec. 1, Ch. 101, L. 1969; amd. Sec. 1, Ch. 42, L. 1974; amd. Sec. 1, Ch. 282, L. 1974; amd. Sec. 8, Ch. 61, L. 1977; Sec. 79-1012, R.C.M. 1947; (2)En. Sec. 5, Ch. 158, L. 1959; amd. Sec. 5, Ch. 282, L. 1974; Sec. 79-1016, R.C.M. 1947; R.C.M. 1947, 79-1012, 79-1016(part).

Cross-References

General duties of Budget Director, 17-1-131.

17-7-104. Repealed. Sec. 1, Ch. 432, L. 1979.

History: En. 79-1012.2 by Sec. 2, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.2.

17-7-105. Repealed. Sec. 1, Ch. 432, L. 1979.

History: En. 79-1012.3 by Sec. 3, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.3.

17-7-106. Repealed. Sec. 1, Ch. 432, L. 1979.

History: En. 79-1020 by Sec. 5, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.5.

17-7-107 through 17-7-110 reserved.

17-7-111. Preparation of state budget — agency program budgets — form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101, for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives. An agency that has complied with the requirements provided in Title 2, chapter 12, part 1, is exempt from the provision of this subsection (3)(c).

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523;

(h) energy cost saving information as required by 90-4-616; and

(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for capital developments for:

(i) local infrastructure projects;

(ii) funding for energy development-impacted areas; and

(iii) the state long-range building program. Each recommendation for the capital developments long-range building program must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the Montana coal endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(7) The following provisions apply to the development of the budget request for the department of public health and human services:

(a) Adjustments to the present law base must be separated by each category described in 17-7-102(11) in order for the legislature to determine the changes that are attributable to legally mandated workload, caseload, or enrollment increases or decreases, constitutional or statutory schedules or formulas, inflationary or deflationary adjustments, and elimination of nonrecurring appropriations.

(b) Inflation adjustments to the present law base for the institutions or services described in subsection (7)(c) must be based on a reliable national index for the particular service or a similar service or the consumer price index for urban wage earners and workers. An inflation adjustment that is greater than the applicable national index or consumer price index must be presented as a new proposal.

(c) Subsection (7)(b) applies to inflation adjustments for:

(i) the department-operated institutions described in 53-1-602; and

(ii) services provided by private sector businesses and other entities that provide direct services to beneficiaries in medicaid programs that are administered by the department divisions responsible for overseeing services for the elderly and for persons with mental illness, physical disabilities, or developmental disabilities.

History: En. Sec. 2, Ch. 158, L. 1959; amd. Sec. 1, Ch. 91, L. 1961; amd. Sec. 1, Ch. 223, L. 1969; amd. Sec. 2, Ch. 282, L. 1974; R.C.M. 1947, 79-1013(part); amd. Sec. 1, Ch. 666, L. 1983; amd. Sec. 1, Ch. 343, L. 1985; amd. Sec. 4, Ch. 5, Sp. L. July 1992; amd. Sec. 3, Ch. 20, L. 1993; amd. Sec. 3, Ch. 12, Sp. L. November 1993; amd. Sec. 1, Ch. 13, Sp. L. November 1993; amd. Sec. 6, Ch. 347, L. 1997; amd. Sec. 1, Ch. 20, L. 1999; amd. Sec. 1, Ch. 332, L. 1999; amd. Sec. 37, Ch. 313, L. 2001; amd. Sec. 3, Ch. 569, L. 2001; amd. Sec. 3, Ch. 332, L. 2003; amd. Sec. 2, Ch. 106, L. 2005; amd. Sec. 6, Ch. 70, L. 2007; amd. Sec. 37, Ch. 2, L. 2009; amd. Sec. 1, Ch. 8, L. 2009; amd. Sec. 1, Ch. 225, L. 2009; amd. Sec. 13, Ch. 478, L. 2009; amd. Sec. 12, Ch. 486, L. 2009; amd. Sec. 3, Ch. 429, L. 2017; amd. Sec. 10, Ch. 469, L. 2019; amd. Sec. 2, Ch. 330, L. 2021; amd. Sec. 2, Ch. 384, L. 2021; amd. Sec. 8, Ch. 760, L. 2023.

17-7-112. Submission deadlines — budgeting schedule. The following is the schedule for the preparation of a state budget for submission to the legislature convening in any session that will be adopting a state budget:

(1) By August 1, forms necessary for preparation of budget estimates must be distributed pursuant to 17-7-111(2).

(2) (a) Except as provided in subsection (2)(b), by September 1, each agency shall submit the information required under 17-7-111 to the budget director.

(b) By September 1, the consolidated legislative branch shall submit a preliminary draft of the information required under 17-7-111 to the budget director. By October 10, the consolidated legislative branch shall submit the information required under 17-7-111 in final form to the budget director.

(3) By September 1, the budget director shall submit each state agency's budget request, except the budget request for the consolidated legislative branch, required under 17-7-111(3) to the legislative fiscal analyst. The transfer of budget information must be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information that allows each office to maintain a reasonable staff workflow.

(4) By October 10, the budget director shall furnish the legislative fiscal analyst with a preliminary budget reflecting the base budget in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.

(5) By October 30, a budget request must be prepared by the budget director and submitted to the legislative fiscal analyst on behalf of any agency that did not present the information required by this section. The budget request must be based upon the budget director's studies of the operations, plans, and needs of the institution, university unit, or agency.

(6) By November 1, the budget director shall furnish the legislative fiscal analyst with a present law base for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing the base budget and present law base for each fiscal year of the ensuing biennium. The material must be in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.

(7) By November 12, the budget director shall furnish the legislative fiscal analyst with the documents, in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, that reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting entity.

(8) By November 15, the proposed pay plan schedule and the statewide project budget summary required by 17-7-111(4), a preliminary budget that meets the statutory requirements for submission of the budget to the legislature, and a summary of the preliminary budget designed for distribution to members and members-elect of the legislature must be submitted to the legislative fiscal analyst.

(9) By December 15, the budget director shall submit a preliminary budget to the governor and to the governor-elect, if there is one, as provided in 17-7-121, and shall furnish the legislative fiscal analyst with all amendments to the preliminary budget.

(10) By January 7, recommended changes proposed by a governor-elect must be transmitted to the legislative fiscal analyst and the legislature as provided in 17-7-121.

History: En. Sec. 2, Ch. 158, L. 1959; amd. Sec. 1, Ch. 91, L. 1961; amd. Sec. 1, Ch. 223, L. 1969; amd. Sec. 2, Ch. 282, L. 1974; R.C.M. 1947, 79-1013(part); amd. Sec. 1, Ch. 290, L. 1981; amd. Sec. 2, Ch. 666, L. 1983; amd. Sec. 2, Ch. 332, L. 1993; amd. Sec. 7, Ch. 347, L. 1997; amd. Sec. 38, Ch. 313, L. 2001; (2)(b)En. Sec. 9, Ch. 507, L. 2001; amd. Sec. 20, Ch. 44, L. 2007; amd. Sec. 6, Ch. 230, L. 2007; amd. Sec. 2, Ch. 8, L. 2009; amd. Sec. 4, Ch. 168, L. 2019.

Cross-References

Salary of County Attorney — one-half payable from county general fund, 7-4-2502.

Salary of County Attorney and Deputy County Attorney, 7-4-2503.

17-7-113. Inquiries and investigations by budget director. The budget director or the budget director's designated representative shall make further inquiries and investigations that the budget director considers necessary as to any item included in the report and estimates furnished by any department, agency, or institution.

History: En. Sec. 5, Ch. 158, L. 1959; amd. Sec. 5, Ch. 282, L. 1974; amd. Sec. 18, Ch. 453, L. 1977; R.C.M. 1947, 79-1016(part); amd. Sec. 4, Ch. 10, L. 2009; amd. Sec. 219, Ch. 56, L. 2009.

Cross-References

Public employees' travel, meals, and lodging, 2-18-501 through 2-18-503.

17-7-114. Repealed. Sec. 82, Ch. 545, L. 1995.

History: En. Sec. 1, Ch. 433, L. 1993.

17-7-115 through 17-7-120 reserved.

17-7-121. Preliminary budget preparation and submission to governor and governor-elect. (1) Upon receipt of the completed forms and other available data and information, the budget director shall examine the same for the purpose of determining the necessity of the disbursements and funds requested and shall, on or before the date established in 17-7-112, submit in writing to the governor and to the governor-elect, if there is one, a preliminary budget for the ensuing biennium containing the detailed information required to be set forth in the budget to be submitted by the governor to the legislature.

(2) If requested by the governor-elect, the governor shall incorporate in the budget, as a separate section, the estimates, comments, and recommendations that the governor-elect may wish to make, and by the date established in 17-7-112, this section of the budget must be

transmitted to the legislature and the legislative fiscal analyst without change. It is the duty of the governor-elect in recommending changes to show a balance between proposed disbursements and anticipated receipts.

History: **En. Sec. 3, Ch. 158, L. 1959; amd. Sec. 3, Ch. 282, L. 1974; R.C.M. 1947, 79-1014; amd. Sec. 8, Ch. 347, L. 1997.**

17-7-122. Preparation of budget. (1) The governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit the budget to the legislative fiscal analyst in accordance with 17-7-112.

(2) Legislative branch budget proposals must be included in the budget submitted by the governor without changes.

(3) Judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123.

History: **(1)En. Sec. 4, Ch. 158, L. 1959; amd. Sec. 15, Ch. 147, L. 1963; amd. Sec. 4, Ch. 282, L. 1974; Sec. 79-1015, R.C.M. 1947; (2)En. Sec. 2, Ch. 158, L. 1959; amd. Sec. 1, Ch. 91, L. 1961; amd. Sec. 1, Ch. 223, L. 1969; amd. Sec. 2, Ch. 282, L. 1974; Sec. 79-1013, R.C.M. 1947; R.C.M. 1947, 79-1015(part), 79-1013(part); amd. Sec. 1, Ch. 657, L. 1991; amd. Sec. 3, Ch. 12, Sp. L. November 1993; amd. Sec. 57, Ch. 545, L. 1995; amd. Sec. 9, Ch. 347, L. 1997; amd. Sec. 5, Ch. 10, L. 2009.**

Cross-References

Budget and messages, Art. VI, sec. 9, Mont. Const.

17-7-123. Form of executive budget. (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation, as provided in 17-8-101, for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The budget must consist of:

(a) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements.

(b) budget and full-time equivalent personnel position comparisons by agency, program, and appropriated funds for the current and subsequent biennium;

(c) the departmental mission and a statement of goals and objectives for the department;

(d) base budget disbursements for the completed fiscal year of the current biennium, estimated comparable disbursements for the current fiscal year, and the proposed present law base budget plus new proposals, if any, for each department and each program of the department;

(e) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category, including:

(i) explanations of appropriation and revenue measures included in the budget that involve policy changes;

(ii) matters not included as a part of the budget bill but included as a part of the executive budget, such as the state employee pay plan, programs funded through separate appropriations measures, and other matters considered necessary for comprehensive public and legislative consideration of the state budget; and

(iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision package reference;

(f) a report on:

(i) enterprise funds not subject to the requirements of subsections (1)(a) through (1)(e), including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and

(ii) fees and charges in the internal service fund type, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.

(g) energy cost saving information as required by 90-4-616 and energy conservation program information as required by 90-4-606; and

(h) any other financial or budgetary material agreed to by the budget director and the legislative fiscal analyst.

(2) The statement of departmental goals and objectives and the schedule as required in 17-7-111(3)(b) for each fund of the executive budget are not required to be printed but must be available in the office of budget and program planning and on the internet.

History: En. Sec. 4, Ch. 158, L. 1959; amd. Sec. 15, Ch. 147, L. 1963; amd. Sec. 4, Ch. 282, L. 1974; R.C.M. 1947, 79-1015(part); amd. Sec. 2, Ch. 596, L. 1983; amd. Sec. 22, Ch. 349, L. 1993; amd. Sec. 3, Ch. 12, Sp. L. November 1993; amd. Sec. 2, Ch. 13, Sp. L. November 1993; amd. Sec. 10, Ch. 347, L. 1997; amd. Sec. 2, Ch. 20, L. 1999; amd. Sec. 39, Ch. 313, L. 2001; amd. Sec. 4, Ch. 569, L. 2001; amd. Sec. 6, Ch. 10, L. 2009; amd. Sec. 2, Ch. 225, L. 2009; amd. Sec. 14, Ch. 478, L. 2009.

Cross-References

Balanced budget, Art. VIII, sec. 9, Mont. Const.

Long-range building program, 17-7-204.

17-7-124. Additional budget data. In addition to the budget required in 17-7-123, the governor shall prepare and make available on request a detailed analysis of receipts by accounting entity within each fund type indicating classification and source of funds.

History: En. Sec. 23, Ch. 349, L. 1993; amd. Sec. 11, Ch. 347, L. 1997.

Cross-References

Agency program budgets — form distribution and contents, 17-7-111.

17-7-125 through 17-7-129 reserved.

17-7-130. Budget stabilization reserve fund — rules for deposits and transfers — purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the budget stabilization reserve fund.

(2) The purpose of the budget stabilization reserve fund is to mitigate budget reductions when there is a revenue shortfall.

(3) Except as provided in subsection (4), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the budget stabilization reserve fund. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(4) The provisions of subsection (3) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (3) would require reductions pursuant to 17-7-140.

(5) If the transfer provided for in subsection (3) increases the balance in the budget stabilization reserve fund to exceed 16% of all general revenue appropriations in the second year of the biennium, the amount in excess is transferred to the capital developments long-range building program account established in 17-7-209.

(6) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the following:

(a) the unaudited, unassigned ending fund balance of the general fund for the most recently completed fiscal year; and

(b) the amount of unaudited general fund revenue and transfers into the general fund received in the prior fiscal year recorded when that fiscal year's statewide accounting, budgeting, and human resource system records are closed. General fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102.

(7) (a) The state treasurer shall calculate the operating reserve level of general fund balance defined in 17-7-102(12). The treasurer shall first apply the excess revenue to reach the operating reserve level general fund balance, if necessary.

(b) Once the general fund balance is at the reserve level, 75% of the remaining excess revenue is transferred as follows:

(i) to the budget stabilization reserve fund, until the amount in the fund is equal to 16% of all general revenue appropriations in the second year of the biennium; then

(ii) to the account established in 17-7-209, until the amount in the fund in excess of the amount needed for appropriations from the capital developments long-range building program account in the capital projects fund type is equal to 12% of all general revenue appropriations in the second year of the biennium.

(c) After the transfers in subsections (7)(b)(i) and (7)(b)(ii) have been made, if the balance of the budget stabilization reserve fund exceeds an amount equal to 16% of the general revenue appropriations in the second year of the biennium and the balance of the account established in 17-7-209 in excess of the amount needed for appropriations from the capital developments long-range building program account in the capital projects fund type exceeds 12% of all general revenue appropriations in the second year of the biennium, then:

(i) 75% of any funds in excess of that amount must be transferred to the Montana growth and opportunity trust established in 17-1-401; and

(ii) 25% of the funds in excess of that amount remain in the general fund.

(8) For the purposes of this section, the following definitions apply:

(a) "Adjusted compound annual growth rate revenue" means general fund revenue for the fiscal year prior to the most recently completed fiscal year plus the growth amount.

(b) "Excess revenue" means the amount of general fund revenue, including transfers in, for the most recently completed fiscal year minus adjusted compound annual growth rate revenue.

(c) "Growth amount" means general fund revenue for the fiscal year prior to the most recently completed fiscal year multiplied by the growth rate.

(d) "Growth rate" means the annual compound growth rate of general fund revenue realized over the period 12 years prior to the most recently completed fiscal year, including the most recently completed fiscal year.

History: En. Sec. 1, Ch. 429, L. 2017; amd. Sec. 17, Ch. 398, L. 2019; amd. Sec. 1, Ch. 491, L. 2021; amd. Sec. 19, Ch. 722, L. 2023; amd. Sec. 27, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 27, Ch. 775, L. 2025. Amendment effective June 19, 2025.

17-7-131. Legislative action — ending fund balance. (1) The presiding officers of the house of representatives and of the senate shall promptly refer the budgets and budget bills to the proper committees. The budget bill for the maintenance of the agencies of state government and the state institutions must be based upon the budget and proposed budget bill submitted at the request of the governor. The legislature may amend the proposed budget bill, but it may not amend the proposed budget bill so as to affect either the obligations of the state or the payment of any salaries required to be paid by the constitution and laws of the state.

(2) The adopted budget must be limited so that a positive ending general fund balance exists at the end of the biennium for which funds are appropriated.

(3) When possible, the adopted budget should be limited so that the ending fund balance of the general fund is greater than or equal to the amount of the operating reserve.

History: En. Sec. 6, Ch. 205, L. 1919; re-en. Sec. 299, R.C.M. 1921; amd. Sec. 4, Ch. 167, L. 1933; re-en. Sec. 299, R.C.M. 1935; Sec. 79-1006, R.C.M. 1947; amd. and redes. 79-1015.1 by Sec. 30, Ch. 326, L. 1974; R.C.M. 1947, 79-1015.1; amd. Sec. 3, Ch. 607, L. 2003; amd. Sec. 4, Ch. 429, L. 2017.

Cross-References

Legislative compensation, Art. V, sec. 5, Mont. Const.

Executive compensation, Art. VI, sec. 5, Mont. Const.

Judicial terms and pay, Art. VII, sec. 7, Mont. Const.

Compensation determination, Title 2, ch. 18, part 3.

17-7-132. Right to appear on consideration of budget. The budget director and representatives of agencies expending or applying for state money may and, when requested by either the house of representatives or the senate, shall appear and be heard with respect to any budget bill.

History: En. Sec. 7, Ch. 205, L. 1919; re-en. Sec. 300, R.C.M. 1921; re-en. Sec. 300, R.C.M. 1935; Sec. 79-1007, R.C.M. 1947; amd. and redes. 79-1015.2 by Sec. 31, Ch. 326, L. 1974; R.C.M. 1947, 79-1015.2; amd. Sec. 12, Ch. 347, L. 1997.

17-7-133. *(Temporary)* **Montana local disaster resiliency fund.** (1) There is statutorily appropriated pursuant to 17-7-502 $4 million per year beginning in the fiscal year beginning July 1, 2023, from the general fund to the department of military affairs.

(2) Eligible uses of the money are:

(a) state and local mitigation projects that reduce or eliminate long-term risk to people and property from future disasters;

(b) the nonfederal cost share for personnel performing mitigation program management; and

(c) matching funds for grants for the purchase of hazardous material equipment and training to increase local capacity to respond to incidents as defined in 10-3-1203 involving hazardous material.

(3) The appropriation is void in any year that there is a projected general fund budget deficit pursuant to 17-7-140. *(Terminates June 30, 2027—sec. 24, Ch. 722, L. 2023.)*

History: En. Sec. 6, Ch. 722, L. 2023.

17-7-134. Repealed. Sec. 40, Ch. 775, L. 2025.

History: En. Sec. 8, Ch. 722, L. 2023.

17-7-135. Pension fund. (1) There is a pension portion of the Montana growth and opportunity trust established 17-1-401.

(2) The account is funded by a distribution pursuant to 17-6-214, 17-7-130, and transfers made pursuant to 17-1-405.

(3) Funds in the account may only be used to transfer into a state-administered pension fund.

(4) In any 2-year period, no more than $300 million may be transferred from the pension section of the Montana growth and opportunity trust for the purposes outlined in subsections (5) and (6).

(5) (a) On certification by the teachers' retirement board, the state treasurer shall transfer no more than 25% of the balance of this fund to the teachers' retirement system to ensure that the system meets its long-term rate of return assumption if the inception-to-date market rate of return as of June 30 in the previous 2 consecutive fiscal years is less than the current actuarially assumed rate of return set by the teachers' retirement board.

(b) The amount of a transfer authorized in subsection (5)(a) is limited to the amount necessary to bring the inception-to-date market rate of return as of June 30 in the previous fiscal year up to the actuarially assumed rate of return set by the teachers' retirement board.

(c) When applicable, the teachers' retirement board shall determine and shall certify to the state treasurer the amount of the transfer required under this section. The state treasurer shall transfer the certified amount to the pension trust fund within 30 days following receipt of certification from the teachers' retirement board.

(6) (a) On certification by the public employees' retirement board, the state treasurer shall transfer no more than 25% of the balance of this fund to the public employees' retirement system to ensure that the system meets its long-term rate of return assumption if the inception-to-date market rate of return as of June 30 in the previous 2 consecutive fiscal years is less than the current actuarially assumed rate of return set by the public employees' retirement board.

(b) The amount of a transfer authorized in subsection (6)(a) is limited to the amount necessary to bring the inception-to-date market rate of return as of June 30 in the previous fiscal year up to the actuarially assumed rate of return set by the public employees' retirement board.

(c) When applicable, the public employees' retirement board shall determine and shall certify to the state treasurer the amount of the transfer required under this section. The state treasurer shall transfer the certified amount to the pension trust fund within 30 days following receipt of certification from the public employees' retirement board.

History: En. Sec. 18, Ch. 775, L. 2025.

Compiler's Comments

Effective Date: Section 46, Ch. 775, L. 2025, provided: "[This act] is effective on passage and approval." Approved June 19, 2025.

17-7-136 and 17-7-137 reserved.

17-7-138. Operating budget. (1) (a) Expenditures by a state agency must be made in substantial compliance with the budget approved by the legislature. Substantial compliance may be determined by conformity to the conditions contained in the general appropriations

act and to legislative intent as established in the narrative accompanying the general appropriations act. An explanation of any significant change in agency or program scope must be submitted on a regular basis to the interim committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2, and to the appropriate interim budget committee in accordance with 5-12-501. An explanation of any significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. A significant change may not conflict with a condition contained in the general appropriations act. If the approving authority certifies that a change is time-sensitive, the approving authority may approve the change prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law and conditions contained in the general appropriations act.

(b) For the purposes of this subsection (1), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

(i) the operating budget change exceeds $1 million; or

(ii) the operating budget change exceeds 25% of a budget category and the change is greater than $75,000. If there have been other changes to the budget category in the current fiscal year, all the changes, including the change under consideration, must be used in determining the 25% and $75,000 threshold.

(2) The expenditure of money appropriated in the general appropriations act to the board of regents, on behalf of the university system units, as defined in 17-7-102, is contingent upon approval of a comprehensive operating budget by October 1 of each fiscal year. The operating budget must contain detailed revenue and expenditures and anticipated fund balances of current funds, loan funds, endowment funds, and plant funds. After the board of regents approves operating budgets, transfers between units may be made only with the approval of the board of regents. Transfers and related justification must be submitted to the office of budget and program planning and to the legislative fiscal analyst.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. The legislature may restrict the use of funds appropriated for personal services to allow use only for the purpose of the appropriation. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget for all funds, other than higher education funds, and any approved changes on the statewide accounting, budgeting, and human resource system. Documents implementing approved changes must be signed. The operating budget for higher education funds must be recorded on the university financial system, with separate accounting categories for each source or use of state government funds. State sources and university sources of funds may be combined for the general operating portion of the current unrestricted funds.

History: En. Sec. 8, Ch. 787, L. 1991; amd. Sec. 1, Ch. 8, Sp. L. July 1992; amd. Sec. 1, Ch. 11, L. 1997; amd. Sec. 13, Ch. 347, L. 1997; amd. Sec. 2, Ch. 255, L. 2001; amd. Secs. 5, 13, Ch. 569, L. 2001; amd. Sec. 1, Ch. 547, L. 2003; amd. Sec. 1, Ch. 58, L. 2005; amd. Sec. 38, Ch. 2, L. 2009; amd. Sec. 1, Ch. 226, L. 2009; amd. Sec. 8, Ch. 525, L. 2021.

17-7-139. Program transfers. (1) Unless prohibited by law or a condition contained in the general appropriations act, the approving authority may approve agency requests to transfer appropriations between programs within each fund type within each fiscal year. The legislature may restrict the use of funds appropriated for personal services to allow use only for the purpose of the appropriation. An explanation of any significant transfer must be submitted on a regular

basis to the interim committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2, and to the appropriate interim budget committee in accordance with 5-12-501. An explanation of any transfer that involves a significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. If the approving authority certifies that a request for a transfer representing a significant change in agency or program scope, objectives, activities, or expenditures is time-sensitive, the approving authority may approve the transfer prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee. All program transfers must be completed within the same fund from which the transfer originated. A request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by the requesting agency to the approving authority and the office of budget and program planning. Upon approval of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the transfer. If money appropriated for a fiscal year is transferred to another fiscal year, the money may not be retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of the first year of a biennium may be retransferred.

(2) For the purposes of subsection (1), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

(a) the budget transfer exceeds $1 million; or

(b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater than $75,000. If there have been other transfers to or from the program in the current fiscal year, all the transfers, including the transfer under consideration, must be used in determining the 25% and $75,000 threshold.

History: En. Sec. 9, Ch. 787, L. 1991; amd. Sec. 14, Ch. 347, L. 1997; amd. Sec. 1, Ch. 6, L. 1999; amd. Sec. 3, Ch. 255, L. 2001; amd. Sec. 6, Ch. 569, L. 2001; amd. Sec. 2, Ch. 58, L. 2005; amd. Sec. 2, Ch. 226, L. 2009; amd. Sec. 9, Ch. 525, L. 2021.

17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) 4% of the general revenue appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 3% of the general revenue appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;

(iii) 2% of the general revenue appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and

(iv) 1% of the general revenue appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. A governor may not reduce total agency spending in the biennium by more than 4% of the second year general revenue appropriations for the agency. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the weighted average of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format and entered into the state budgeting software. The recommendations must be provided to the legislature in accordance with 5-11-210. The legislative finance committee established in 5-12-201 and the interim budget committees established in 5-12-501 shall meet within 30 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The legislative finance committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending and may incorporate information from the interim budget committees in making recommendations. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

(a) payment of interest and principal on state debt;

(b) the legislative branch;

(c) the judicial branch;

(d) the school BASE funding program, including special education;

(e) salaries of elected officials during their terms of office; and

(f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

(i) 4% of the general revenue appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 1.875% in October of the year preceding a legislative session;

(iii) 1.25% in January of the year in which a legislative session is convened; and

(iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue interim committee in accordance with 5-11-210 of the estimated amount. Within 20 days of notification, the revenue interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsection (7).

(6) If the budget director certifies a projected general fund budget deficit, then the governor may cancel the remaining transfers of volatile revenue to the Montana growth and opportunity trust established in 17-1-401 for the biennium.

(7) The governor may authorize transfers from the budget stabilization reserve fund provided for in 17-7-130. The governor may authorize $3 of transfers from the fund for each $1 of reductions in spending but may not authorize a transfer that would cause the balance of the budget stabilization reserve fund to be less than 6% of all general revenue appropriations in the second year of the biennium.

History: En. Sec. 10, Ch. 787, L. 1991; amd. Sec. 1, Ch. 5, Sp. L. July 1992; amd. Sec. 55, Ch. 633, L. 1993; amd. Sec. 42, Ch. 19, L. 1999; amd. Sec. 46, Ch. 114, L. 2003; amd. Sec. 1, Ch. 169, L. 2003; amd. Sec. 4, Ch. 607, L. 2003; amd. Sec. 9, Ch. 120, L. 2013; amd. Sec. 2, Ch. 368, L. 2013; amd. Sec. 1, Ch. 165, L. 2015; amd. Sec. 5, Ch. 429, L. 2017; amd. Sec. 3, Ch. 7, Sp. L. November 2017; amd. Sec. 16, Ch. 163, L. 2019; amd. Sec. 4, Ch. 398, L. 2019; amd. Sec. 40, Ch. 261, L. 2021; amd. Sec. 2, Ch. 508, L. 2021; amd. Sec. 20, Ch. 722, L. 2023; amd. Sec. 28, Ch. 775, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 28, Ch. 775, L. 2025. Amendment effective June 19, 2025.

17-7-141. Audit costs. Amounts appropriated for audits conducted under Title 5, chapter 13, may be transferred between fiscal years. Agencies shall reserve enough money in each fund to pay for audit costs and to the maximum extent allowable under federal regulations shall charge audit costs to federal funds.

History: En. Sec. 11, Ch. 787, L. 1991.

17-7-142. Calculation of reversions for funded resident enrollment growth in Montana university system. (1) The reversion calculation in this section is effective only in those years when the legislature funds resident enrollment growth based on resident enrollment projections and requires a reversion by the Montana university system if the resident enrollment projections are not met.

(2) The reversion must be calculated based on the marginal funding for each resident FTE identified in the general appropriations act.

(3) The total reversion is calculated based on the difference between the FTE resident enrollment projection and the actual FTE resident enrollment or the FTE resident enrollment projection and the prior 3-year average FTE resident enrollment, whichever is lower.

History: En. Sec. 1, Ch. 253, L. 2001; amd. Sec. 1, Ch. 23, L. 2003; amd. Secs. 1, 2, Ch. 348, L. 2021.

17-7-143 through 17-7-149 reserved.

17-7-150. Definitions. As used in 17-7-151, the following definitions apply:

(1) "Current biennium" means the biennium during which the legislature is meeting in regular session.

(2) "Next biennium" means the biennium for which the regular session of the legislature makes appropriations.

(3) (a) "State resources" means:

(i) the general fund;

(ii) state special revenue funds other than private funds;

(iii) federal special revenue funds;

(iv) proprietary funds that require an appropriation;

(v) identified fund transfers to nonstate resources, not including the debt service fund type; and

(vi) the capital projects fund type.

(b) The term does not include:

(i) the debt service fund type;

(ii) fund transfers among state resources or from state resources to the debt service fund type;

(iii) higher education funds;

(iv) permanent funds;

(v) noncash accounting entries; and

(vi) the fiduciary fund category.

History: En. Sec. 1, Ch. 74, L. 1997; amd. Sec. 10, Ch. 34, L. 2001; amd. Sec. 4, Ch. 232, L. 2015.

17-7-151. Budget comparison. (1) The budget comparison contrasts appropriations for general government operations in one biennium to those in a different biennium.

(2) In preparing budget comparisons for legislative sessions, the office of budget and program planning and the legislative fiscal division shall compare temporary and statutory appropriations of state resources in the current biennium to temporary and statutory appropriations of state resources in the next biennium.

(3) The office of budget and program planning and the legislative fiscal division shall share the methods used to estimate the amounts of statutory appropriations. If there are differences in estimates of revenue or amounts of statutory appropriations, the legislative fiscal analyst shall explain the differences as part of the independent analysis of the executive budget.

(4) Budget comparisons must include the same attributes and methods of calculation. Items that are not appropriated at the beginning of a biennium, such as budget amendments, supplemental appropriations, and reappropriations, must be included in budget comparisons but must be segregated and indicated as noncomparable items.

History: En. Sec. 2, Ch. 74, L. 1997; amd. Sec. 5, Ch. 232, L. 2015.

17-7-152. Expenditure comparison. (1) The expenditure comparison contrasts expenditures of state resources for general government operations over time.

(2) In preparing expenditure comparisons, the office of budget and program planning and the legislative fiscal division shall compare actual expenditures of state resources.

(3) Expenditure comparisons must include the same attributes and methods of calculation. An expenditure of state resources may be accounted for only once in a comparison. Expenditures that are not appropriated at the beginning of a biennium, such as budget amendments, supplemental appropriations, and emergency appropriations, must be included in expenditure comparisons but must be segregated.

History: En. Sec. 1, Ch. 232, L. 2015.

17-7-153. State contributions to local government — expenditure comparison. Expenditure comparisons of state resources to local government must include local assistance grants, city or county or city-county appropriations, federal revenue sharing funds, fund transfers to local governments, and other expenditures of state resources made by the state to local government entities, tribal entities, and school districts.

History: En. Sec. 2, Ch. 232, L. 2015.

17-7-154. Terminated. Sec. 7, Ch. 232, L. 2015.

History: En. Sec. 3, Ch. 232, L. 2015; amd. Sec. 8, Ch. 358, L. 2017.

17-7-155 through 17-7-159 reserved.

17-7-160. Montana highway patrol exempt from vacancy savings. (1) Vacancy savings may not be imposed on authorized positions in the Montana highway patrol.

(2) For purposes of this section:

(a) "authorized positions" means those positions included in the list of current authorized positions that the Montana highway patrol is required to maintain under 2-18-206; and

(b) "vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of those authorized positions during that period.

History: En. Sec. 5, Ch. 421, L. 2005; amd. Sec. 1, Ch. 118, L. 2015.

17-7-161. Game warden positions exempt from vacancy savings. (1) Vacancy savings may not be imposed on authorized game warden positions in the department.

(2) For purposes of this section:

(a) "authorized game warden positions" means those game warden positions included in the list of current authorized positions that the department is required to maintain under 2-18-206;

(b) "department" means the department of fish, wildlife, and parks established in 2-15-3401; and

(c) "vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of funding those authorized positions during that fiscal year.

History: En. Sec. 1, Ch. 519, L. 2007; amd. Sec. 2, Ch. 118, L. 2015.

17-7-162. Montana school for the deaf and blind exempt from vacancy savings. (1) Vacancy savings may not be imposed on authorized positions in the Montana school for the deaf and blind, as described in 20-8-101.

(2) For purposes of this section, the following definitions apply:

(a) "Authorized positions" means those positions included in the list of current authorized positions that the board is required to maintain under 2-18-206.

(b) "Vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of those authorized positions during that period.

History: En. Sec. 3, Ch. 394, L. 2011; amd. Sec. 3, Ch. 118, L. 2015.

17-7-163. Appropriations for medicaid expenditures. Appropriations in a general appropriations act for medicaid may be used only to pay for or administer medicaid services.

History: En. Sec. 1, Ch. 355, L. 2021.

Cross-References

Medical assistance — Medicaid, Title 53, ch. 6, part 1.

Part 2
Long-Range Building Program and Budget

Part Cross-References

General obligation bonds and notes, Title 17, ch. 5, part 8.

17-7-201. Definitions. In this part, the following definitions apply:

(1) (a) "Building" includes a:

(i) building, facility, or structure constructed or purchased wholly or in part with state money;

(ii) building, facility, or structure at a state institution;

(iii) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(b) The term does not include a:

(i) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;

(ii) facility or structure used as a component part of a highway or water conservation project.

(2) "Capital development" means a:

(a) renovation, construction, alteration, site, or utility project with a total cost of $2.5 million or more;

(b) new facility with a construction cost of $250,000 or more; or

(c) purchase of real property for which an appropriation is required to fund the purchase.

(3) "Construction" includes construction, repair, alteration, renovation, and equipping and furnishing during construction, repair, or alteration.

(4) "Division" means the architecture and engineering division of the department of administration.

(5) "High-performance building" means a building that integrates and optimizes all major high-performance building attributes, including but not limited to:

(a) energy efficiency;

(b) durability;

(c) life-cycle performance; and

(d) occupant productivity.

(6) (a) "Long-range building program-eligible building" means a building, facility, or structure eligible for major repair account funding that:

(i) is owned or fully operated by a state agency and for which the operation and maintenance are funded with state general fund money; or

(ii) supports academic missions of the university system and for which the operation and maintenance are funded with current unrestricted university funds.

(b) The term does not include a building, facility, or structure:

(i) owned or operated by a state agency and for which the operation and maintenance are entirely funded with state special revenue, federal special revenue, or proprietary funds; or

(ii) that supports nonacademic functions of the university system and for which the operation and maintenance are funded from nonstate and nontuition sources.

(7) (a) "Major repair" means:

(i) a renovation, alteration, replacement, or repair project with a total cost of less than $2.5 million;

(ii) a site or utility improvement with a total cost of less than $2.5 million; or

(iii) a new facility with a total construction cost of less than $250,000.

(b) The term does not include operations and maintenance as defined in this section.

(8) (a) "New facility" means the construction or acquisition of a new building on state property regardless of funding source and includes:

(i) an addition to an existing building; and

(ii) the enclosure of space that was not previously fully enclosed.

(b) The term does not include the replacement of state-owned space that is demolished or that is otherwise removed from state use if the total construction cost of the replacement space is less than $2.5 million.

(9) "Operations and maintenance" means operational costs and regular, ongoing, and routine repairs and maintenance funded in an agency operating budget that does not extend the capacity, function, or lifespan of a facility.

(10) "Replacement cost of existing long-range building program-eligible building" means the current replacement value of all long-range building program-eligible buildings included in the statewide facility inventory and condition assessment as provided in 17-7-202.

History: En. Sec. 14, Ch. 271, L. 1963; amd Sec. 1, Ch. 24, L. 1973; amd. Sec. 81, Ch. 326, L. 1974; R.C.M. 1947, 82-3314; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 2, Ch. 135, L. 2009; amd. Sec. 1, Ch. 281, L. 2017; amd. Sec. 11, Ch. 469, L. 2019; amd. Sec. 14, Ch. 763, L. 2023; amd. Sec. 11, Ch. 773, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 11, Ch. 773, L. 2025. Amendment effective June 19, 2025.

17-7-202. Preparation of building programs and submission to department of administration — statewide facility inventory and condition assessment. (1) Before April 1 of the year preceding a legislative session, each state agency and institution shall submit to the architecture and engineering division of the department of administration, on forms furnished by the division, a proposed long-range building program for major repair projects and capital developments, if any, for the agency or institution along with the agency's or institution's 6-year capital development facilities strategic plan. Excluding major repair projects greater than $2.5 million, the division may not include a capital development project request in the information provided pursuant to 17-7-202(4) without the project also being included in an agency's or institution's 6-year capital development facilities strategic plan, unless approved by the office of budget and program planning. Each agency and institution shall furnish any additional information requested by the division relating to the utilization of or need for major repair projects and capital developments.

(2) (a) Except as provided in subsection (3), the division shall compile and maintain a statewide facility inventory and condition assessment that:

(i) for each state-owned building:

(A) identifies its location and total square footage;

(B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;

(C) lists the current replacement value of the building in its entirety and each agency's portion of the building; and

(D) identifies whether the building is a long-range building program-eligible building; and

(ii) for each long-range building program-eligible building:

(A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and

(B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.

(b) The division may contract with a private vendor to collect, analyze, and compile the building information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the division.

(d) The division may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The division shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of the year preceding a regular legislative session in an electronic format. The division shall provide a copy of the report to the legislature in accordance with 5-11-210.

(3) The division is not required to include a state-owned building that has a current replacement value of $300,000 or less in the facility inventory and condition assessment.

(4) The division shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of major repair projects and capital developments. The information compiled by the division shall be submitted to the governor before October 1 of the year preceding a regular legislative session.

History: En. Sec. 15, Ch. 271, L. 1963; amd. Sec. 82, Ch. 326, L. 1974; R.C.M. 1947, 82-3315(1), (2); amd. Sec. 2, Ch. 281, L. 2017; amd. Sec. 12, Ch. 469, L. 2019; amd. Sec. 41, Ch. 261, L. 2021; amd. Sec. 12, Ch. 773, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 12, Ch. 773, L. 2025. Amendment effective June 19, 2025.

Cross-References

Construction contracts — general provisions, 18-2-101 through 18-2-105.

17-7-203. Submission to legislature. During the first week of each regular legislative session, the governor shall submit to the legislature:

(1) the requests of all state agencies and institutions compiled in the form of a comprehensive, long-range proposed building program for capital developments, including:

(a) the purpose for which each building would be used;

(b) the estimated cost of each building, including necessary land acquisition;

(c) the reasons given by the institution or agency for needing each building;

(d) a priority order recommended by the agency or institution for each building;

(e) the recommendation of the institution or agency as to when each building is needed;

(f) any comments of the governor;

(2) a building program for capital developments proposed by the governor for the forthcoming biennium in the form of a capital developments budget, including:

(a) the purpose for which each building would be used;

(b) the estimated cost of each building and necessary land acquisition;

(c) the reasons for the governor's recommendation to construct each building during the forthcoming biennium;

(d) the proposed method of financing for each building;

(e) any long-range building plans;

(f) any changes in the law necessary to insure an effective, well-coordinated building program for the state.

(3) the list of anticipated major repair projects submitted by the architecture and engineering division pursuant to 17-7-223.

History: En. Sec. 15, Ch. 271, L. 1963; amd. Sec. 82, Ch. 326, L. 1974; R.C.M. 1947, 82-3315(3); amd. Sec. 13, Ch. 469, L. 2019.

17-7-204. Long-range building program for capital developments. The executive budget for all state agencies must include detailed recommendations for the state long-range building program for capital developments presented in order of importance by fund type. Each recommendation must be presented by agency or branch by funding source, with a description of each proposed capital development, an explanation of the problem to be addressed by the proposed project, alternative methods of addressing the problem, the rationale for the selection

of a particular alternative, and a projection of increased operating costs incident to the project for the next three bienniums.

History: En. 79-1015.1 by Sec. 4, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.4; amd. Sec. 15, Ch. 347, L. 1997; amd. Sec. 14, Ch. 469, L. 2019.

Cross-References

Form of executive budget, 17-7-123.
Authority to construct buildings, 18-2-102.
Scheduling of state building program, 18-2-104.

17-7-205. Renumbered 17-7-221. Code Commissioner, 2019.

17-7-206. Repealed. Sec. 17, Ch. 469, L. 2019.

History: En. Sec. 12, Ch. 547, L. 1995.

17-7-207 reserved.

17-7-208. Capital development funding — transfer as present law base. (1) As part of the executive budget prepared pursuant to 17-7-123, the governor shall propose annual transfers from the general fund into the account established in 17-7-209. Except as provided in subsection (2), the amount of the proposed annual transfers are considered present law and must be equal to 1% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session less the:

(a) general fund debt service anticipated by the office of budget and program planning for each year of the biennium for issued general obligation bonds paid from the general fund as set forth in the state budget pursuant to 17-5-802; and

(b) projected general fund debt service for each year of the biennium for general obligation bonds paid from the general fund proposed in the executive budget.

(2) The governor may propose to reduce or increase the amount of the annual transfers proposed pursuant to subsection (1). Any proposed increase or decrease to the amount required in subsection (1) must be included in the executive budget request as a new proposal.

(3) The legislature may appropriate funds in the general appropriations act for transfer into the account established in 17-7-209 from the general fund for capital development projects based on the state fiscal condition.

(4) The appropriated transfer to the account established in 17-7-209 to fund capital developments is part of the base budget for purposes of Title 17, chapter 7, part 1.

(5) The department of administration shall transfer the annual amount appropriated by the legislature from the general fund to the capital developments long-range building program account established in 17-7-209 by August 15 of each fiscal year except as provided in subsection (6).

(6) The department of administration may not make the annual transfer if the executive has authorized transfers from the budget stabilization reserve fund established in 17-7-130 in the immediately preceding 11 months or if the transfer would result in reductions pursuant to 17-7-140.

(7) This section does not limit the ability of the legislature to authorize general obligation bonds or the board of examiners to issue and sell bonds authorized by previous legislatures and has no effect on the pledge or security for general obligation bonds.

History: En. Sec. 4, Ch. 469, L. 2019.

17-7-209. Capital developments long-range building program account. (1) (a) There is a capital developments long-range building program account in the capital projects fund type to fund capital developments and to retire general obligation bonds paid by the general fund.

(b) If there are funds in excess of the amount needed for appropriations from the capital developments long-range building program account in the capital projects fund type, then the excess funds:

(i) may be used to pay down the principal, interest, premiums, and any costs or fees associated with redeeming or defeasing outstanding general obligation bonds paid by the general fund for capital projects previously authorized and issued pursuant to state law; and

(ii) must be used to forego or reduce the amount of an issuance of general obligation bonds paid by the general fund and authorized pursuant to state law only if the balance in the capital

developments long-range building program account established in 17-7-209 is $100 million or more after reducing the account balance by:

(A) the amount needed for appropriations from the account; and

(B) the amount of funds used to forego or reduce the issuance of general obligation bonds paid by the general fund.

(2) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account.

(3) For the purposes of subsection (1)(b)(i), funds are statutorily appropriated pursuant to 17-7-502(4) from this account.

History: **En. Sec. 5, Ch. 469, L. 2019; amd. Sec. 2, Ch. 491, L. 2021; amd. Sec. 5, Ch. 722, L. 2023.**

17-7-210. Required funding for maintenance of newly authorized state buildings. (1) If construction or acquisition of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance.

(2) (a) To the extent allowed by law, at the end of each fiscal year following approval of a new facility but prior to receipt of its certificate of occupancy or acquisition, the appropriation made pursuant to subsection (1) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) When a certificate of occupancy or acquisition for a new facility is received prior to the end of the fiscal year, the amount of the appropriation made pursuant to subsection (1) that reverts to its originating fund is the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy.

History: **En. Sec. 6, Ch. 469, L. 2019; amd. Sec. 13, Ch. 773, L. 2025.**

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 13, Ch. 773, L. 2025. Amendment effective June 19, 2025.

17-7-211. Expansion to be authorized — budget amendment. (1) An existing capital project may not be expanded beyond the scope of the project approved by the legislature unless the expansion of the project is authorized by a long-range building program budget amendment approved by the budget director.

(2) A proposed long-range building program budget amendment must be submitted to the budget director through the architecture and engineering division of the department of administration. The budget director, through a long-range building program budget amendment, may authorize:

(a) the transfer of excess funds appropriated to a capital project within an agency to increase the appropriation of another capital project within that agency; or

(b) financing to expand a project with funds that were not available for consideration by the legislature.

History: **En. Sec. 13, Ch. 787, L. 1991; amd. Sec. 16, Ch. 347, L. 1997.**

17-7-212. Reappropriation of capital projects. The remaining balances on capital projects previously approved by the legislature are reappropriated for the purposes of the original appropriation until the projects are completed.

History: **En. Sec. 14, Ch. 787, L. 1991.**

17-7-213. High-performance building standards. (1) New buildings and major renovations constructed under 17-7-202 and new state-leased buildings must:

(a) be built and operated as high-performance buildings; and

(b) exceed the International Energy Conservation Code most recently adopted by the department of labor and industry by 20% or to the extent that is cost-effective over the life of the building or major renovation.

(2) The department, in collaboration with the Montana university system and other state agencies, shall adopt high-performance building standards. In developing these standards, the department shall consider:

(a) integrated design principles to optimize energy performance, enhance indoor environmental quality, and conserve natural resources;

(b) cost-effectiveness, including productivity, deferred maintenance, and operational considerations;

(c) environmental, economic, and social sustainability of materials and components; and

(d) building functionality, durability, and maintenance.

History: En. Sec. 1, Ch. 135, L. 2009.

17-7-214. *(Temporary)* **High-performance program for operations and maintenance of existing buildings.** (1) The department of administration, in collaboration with the Montana university system and other state agencies, shall develop a voluntary high-performance building program for the operation and maintenance of existing buildings. In developing this program, the department of administration shall consider:

(a) integrated design principles to optimize energy performance, enhance indoor environmental quality, and conserve natural resources;

(b) cost-effectiveness, including productivity, deferred maintenance, and operational considerations; and

(c) building functionality, durability, and maintenance.

(2) When economically justified, state agencies may elect to improve the cost-effectiveness of existing buildings by participating in the high-performance program for operations and maintenance of existing buildings established by the department of administration under this section.

(3) The department of administration, in collaboration with the Montana university system, shall provide a report to the energy and technology interim committee in accordance with 5-11-210 on the high-performance building program established in subsection (1). The report must include an overview of the state agencies and educational units participating in the program and an estimate of savings or actual savings in operations and maintenance resulting from participation in the program. *(Terminates June 30, 2029—sec. 1, Ch. 408, L. 2019.)*

History: En. Sec. 1, Ch. 422, L. 2015; amd. Sec. 42, Ch. 261, L. 2021; amd. Sec. 7, Ch. 625, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 7, Ch. 625, L. 2025. Amendment effective May 13, 2025.

17-7-215. *(Temporary)* **Transfer of budgeted utility funds — special revenue account — university plant subfunds.** (1) (a) For each fiscal year, each state agency, other than the university system, participating in the high-performance program for operations and maintenance of existing buildings created in 17-7-214 may transfer to the special revenue account established in subsection (1)(b) 75% of any amount remaining in the budgeted operating expenses for building maintenance. Only state funds may be transferred.

(b) The architecture and engineering division of the department of administration shall establish a special revenue account to receive transfers made pursuant to subsection (1)(a). Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of this part. All interest and income earned on money in the account must be deposited into the account.

(c) The division shall administer the special revenue account established in subsection (1)(b) to the credit of each participating agency for the purposes of subsection (3).

(2) The Montana university system may establish a subfund of the plant fund provided for in 17-2-102(4)(e) to receive the transfer made for each educational unit participating in the program established under 17-7-214. At the end of each fiscal year, a participating educational unit may transfer to the unit's subfund 75% of the unit's unspent utility funds. All interest and income earned on the money in the subfund must remain in the subfund. The educational unit may use the money in the unit's subfund for the purposes described in subsection (3).

(3) The money in the special revenue account and in any university plant subfunds created pursuant to subsection (2) is designated for the purpose of financing high-performance operations and maintenance and achieving utility cost reductions. *(Terminates June 30, 2029—sec. 1, Ch. 408, L. 2019.)*

History: En. Sec. 2, Ch. 422, L. 2015.

17-7-216 through 17-7-220 reserved.

17-7-221. Major repair long-range building program account. (1) There is a major repair long-range building program account in the capital projects fund type to fund major repair projects.

(2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

(3) Coal severance taxes are allocated to and deposited in the account under 15-35-108.

(4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account.

History: En. Sec. 3, Ch. 456, L. 1995; amd. Sec. 13, Ch. 387, L. 2011; amd. Sec. 9, Ch. 6, Sp. L. November 2017; amd. Sec. 15, Ch. 469, L. 2019; Sec. 17-7-205, MCA 2017; redes. 17-7-221 by Code Commissioner, 2019.

Cross-References

Investment of coal severance tax trust fund, 15-35-108.

Disposition of taxes — statutory appropriation, 16-11-119.

17-7-222. Minimum funding for major repair — restriction of capital developments — transfer to satisfy minimum as present law base. (1) The minimum level of funding for major repair projects is 0.6% of the replacement cost of existing long-range building program-eligible buildings for each fiscal year.

(2) The legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the legislature has estimated and appropriated the amount referred to in subsection (1) to fund major repair projects for long-range building program-eligible buildings from the account established in 17-7-221 for each fiscal year.

(3) Sources for funding the amount referred to in subsection (1) are:

(a) revenue allocations into the account established in 17-7-221 of cigarette tax revenue allocated pursuant to 16-11-119 and coal severance taxes allocated pursuant to 15-35-108, as projected in the official revenue estimate provided in 5-5-227; and

(b) an appropriated transfer into the account from the general fund in the general appropriations act.

(4) The appropriated transfer in subsection (3)(b) to the account established in 17-7-221 to fund major repair projects is part of the present law base for purposes of Title 17, chapter 7, part 1, and must be sufficient to fund the amount referred to in subsection (1) when added to the account's revenue allocations in subsection (3)(a).

History: En. Sec. 3, Ch. 469, L. 2019.

17-7-223. Major repair — submission of list to legislature — priorities. (1) By November 15 of the year preceding a regular legislative session, the division shall, on behalf of all state agencies, submit a list of anticipated major repair projects to the governor. The governor shall review the list of anticipated long-range building program-eligible major repair projects recommended by the division and submit it to the legislature.

(2) The division shall ensure that the list identifies:

(a) single projects that cost more than $300,000;

(b) multiple projects within a single building or facility that collectively cost more than $300,000; and

(c) single projects that will be constructed in phases with an aggregate cost of more than $300,000.

(3) Unless otherwise directed by the legislature, the division shall execute major repair projects from the prioritized list submitted to the legislature up to the level of appropriation made by the legislature.

(4) In prioritizing major repair projects, the division shall consider the results of the statewide facility inventory and condition assessment prepared pursuant to 17-7-202.

(5) In prioritizing major repair projects, the division shall allocate at least 80% of the funds that the legislature appropriates for major repair to:

(a) projects that address:

(i) any issue that impacts health and safety;

(ii) failing building envelopes;

(iii) structural deficiencies;

(iv) energy, utility, or water savings;

(b) projects that upgrade, repair, or replace:

(i) mechanical, plumbing, or control systems;
(ii) electrical systems;
(iii) fixed equipment;
(iv) an essential building component; or
(v) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(c) projects that demolish and replace an existing building or facility that is in extensive disrepair and cannot be fixed by repair or maintenance.

(6) In prioritizing major repair projects, the division shall allocate no more than 20% of the funds that the legislature appropriates for major repair to:

(a) remodeling and aesthetic upgrades to meet programmatic needs; or
(b) construct an addition to an existing building or facility.

History: En. Sec. 1, Ch. 469, L. 2019; amd. Sec. 14, Ch. 773, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 14, Ch. 773, L. 2025. Amendment effective June 19, 2025.

17-7-224. Funding for major repair — emergency funding. (1) After the legislature approves the list of anticipated major repair projects, if an exigency arises that creates an unforeseen and critical need for a major repair project, the division may reallocate major repair funds to address the project.

(2) The division shall report any changes made in major repair allocations approved by the legislature to:

(a) the legislative fiscal analyst and the budget director on a quarterly basis; and
(b) the legislature at its next regular session.

History: En. Sec. 2, Ch. 469, L. 2019.

17-7-225. Capitol complex executive branch state special revenue account. (1) There is a capitol complex executive branch state special revenue account in the state special fund type established in 17-2-102.

(2) Interest earnings, project carryover funds, and miscellaneous revenue must be retained in the account.

History: En. Sec. 9, Ch. 762, L. 2023.

17-7-226. Eligible use of funds. (1) The funds in the account established in 17-7-225 may be used to continue renovation, replacement, or construction of complex facilities based on findings from the 2022 Montana remote and office workspace study, including but not limited to capital improvements to:

(a) align modern workspace with a modern workforce;
(b) implement enterprise-wide opportunities for technology enhanced touch-down and hoteling stations;
(c) improve productivity;
(d) reduce agency programmatic and operational costs;
(e) provide flexible spaces for long-term efficiencies, performance, and cost reduction;
(f) improve workforce efficiencies, recruiting, and retention, including telework-friendly design;
(g) consolidate state-owned and leased properties into existing, replacement, or new spaces;
(h) renovation or construction costs, including relocation costs, for moving the legislative audit division provided for in 5-13-301 and non-legislative branch functions or agencies out of the capitol;
(i) colocation to take advantage of teleworking and mission-related adjacencies;
(j) centralize access to governmental services and improve citizen accessibility;
(k) provide security improvements to ensure safety and continuity of governmental operations; and
(l) increase disaster resiliency.

(2) Priority must be given to projects that have a high return on investment or that reduce deferred maintenance backlog through the renovation and renewal of existing spaces.

(3) Furniture, fixtures, and equipment associated with the implementation of this section may be paid from these funds.

(4) Operating, administrative, moving, and relocation costs associated with the implementation of this section may be paid from these funds.

(5) The department may propose transfers from the account established in 17-7-225 to the major repair long-range building program account or the capital developments long-range building program account for executive branch capital projects within the capitol complex.

History: En. Sec. 10, Ch. 762, L. 2023.

17-7-227. Capitol complex legislative branch state special revenue account. (1) There is a capitol complex legislative branch state special revenue account in the state special fund established in 17-2-102.

(2) Interest earnings, project carryover funds, and miscellaneous revenue must be retained in the account.

History: En. Sec. 11, Ch. 762, L. 2023.

17-7-228. Eligible use of funds. (1) The funds in the account established in 17-7-227 may be used to:

(a) develop and implement a strategic capital plan to improve the efficiency and functionality of the legislative space and the legislative process;

(b) plan, renovate, replace, or construct capitol complex facilities for the use of the legislative branch;

(c) increase citizen access to legislators and the legislative process;

(d) locate priority functions and entities to be located within the walls of the capitol;

(e) relocate functions and entities not required to be located within the walls of the capitol;

(f) address deficiencies in legislator and legislative support staff spaces;

(g) improve adjacencies and colocation where functional efficiencies can be gained;

(h) provide flexible spaces for long-term efficiencies, performance, and cost reduction;

(i) improve workforce efficiencies, recruiting, and retention, including telework-friendly design; and

(j) implement telework opportunities.

(2) Priority must be given to projects that improve the legislative process by providing individual office space for legislators, expanding or adding public hearing rooms, or increasing the availability of space for constituent meetings and outreach.

(3) Furniture, fixtures, and equipment associated with the implementation of this section may be paid from these funds.

(4) Operating, administrative, moving, and relocation costs of legislative branch functions moved or relocated in the implementation of this section may be paid from these funds. Renovation or construction costs, including relocation costs, for moving non-legislative branch functions or agencies out of the capitol must be paid from the funds in the account established in 17-7-225.

(5) The legislative branch long-range capital development plan must be updated at a minimum on a decennial basis and prior to undertaking any major capital development exceeding $5 million not included in the current legislative branch long-range capital development plan in effect.

(6) The legislature may transfer from the account established in 17-7-227 to the major repair long-range building program account or the capital developments long-range building program account for legislative branch capital projects within the capitol complex.

(7) The legislative council, with consultation of the legislative finance committee and legislative audit committee, shall serve as a long-range building committee to recommend to the legislature and the department of administration construction and remodeling priorities for the capitol and capitol complex.

History: En. Sec. 12, Ch. 762, L. 2023.

Part 3
Supplemental Appropriations, Encumbrances, and Reversions

Part Cross-References
Uniform accounting system and expenditure control, 17-1-102.

17-7-301. Authorization to expend during first year of biennium from appropriation for second year — proposed supplemental appropriation defined — limit on second-year expenditures. (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general appropriations act to make first-year expenditures may be granted spending authorization by the approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation for executive branch proposals by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

(c) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice is required to provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving authority shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The agency may expend the amount authorized by the approving authority only for the purposes specified in the authorization.

(5) The approving authority shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the approving authority and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest

extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan.

History: En. Sec. 1, Ch. 82, L. 1961; R.C.M. 1947, 79-1019; amd. Sec. 1, Ch. 11, Sp. L. January 1992; amd. Sec. 1, Ch. 357, L. 1993; amd. Sec. 17, Ch. 347, L. 1997; amd. Sec. 4, Ch. 393, L. 2019; amd. Sec. 19, Ch. 415, L. 2019.

Compiler's Comments

Purported Repeal of Termination Provision: Section 2, Ch. 35, L. 2025, purported to repeal the termination of the sec. 19, Ch. 415, L. 2019, amendments to this section imposed by sec. 48, Ch. 415, Ch. 2019. However, because the amendments terminated prior to the repeal of the termination section, the repeal of the termination is ineffective.

Cross-References

Appropriation and disbursement of money from treasury, 17-8-101.
Conditions in appropriation acts, 17-8-103.

17-7-302. Encumbrance of fiscal yearend obligations. (1) Any valid obligation not paid within the fiscal year, including valid written interagency or intra-agency service agreements for systems development, shall be encumbered for payment thereof at the end of each fiscal year in the department of administration's accounts. Except as provided in subsection (2), an appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created.

(2) An appropriation may be encumbered by a written interagency or intra-agency agreement with the department for the alteration, repair, maintenance, or renovation of a building pursuant to the provisions of Title 18, chapter 2. If the appropriation is not encumbered by a valid obligation at the end of the next fiscal year, the appropriation reverts to the fund from which it was originally appropriated.

History: En. Sec. 3, Ch. 84, L. 1955; amd. Sec. 3, Ch. 127, L. 1961; amd. Sec. 2, Ch. 267, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 59-701.2; amd. Sec. 1, Ch. 544, L. 1979; amd. Sec. 1, Ch. 146, L. 1985; amd. Sec. 1, Ch. 60, L. 1987; amd. Sec. 2, Ch. 482, L. 2007.

17-7-303. Reappropriation of encumbered obligations at end of each fiscal year. Purchase orders issued and accrued expenses approved by the department of administration shall be encumbered at the end of each fiscal year in the department of administration's accounts and are hereby reappropriated for the succeeding fiscal year.

History: En. Sec. 2, Ch. 84, L. 1955; amd. Sec. 1, Ch. 267, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 59-701.1.

17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance and to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose, except for increases in pay, that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account.

(iii) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to the legislative audit division may be deposited in the account established in 5-13-404.

(5) When the carryforward appropriation authority is established on the accounting system, and prior to spending funds pursuant to subsection (4), an agency must report to the approving authority how those funds will be spent in the following 2 years.

History: En. Sec. 2, H.B. 372, p. 16, L. 1895, not published in the codes; re-en. Sec. 304, R.C.M. 1921; re-en. Sec. 304, R.C.M. 1935; amd. Sec. 14, Ch. 147, L. 1963; Sec. 79-1011, R.C.M. 1947; amd. and redes. 79-1015.3 by Sec. 32, Ch. 326, L. 1974; R.C.M. 1947, 79-1015.3; amd. Sec. 6, Ch. 787, L. 1991; amd. Sec. 2, Ch. 5, Sp. L. July 1992; amd. Sec. 31, Ch. 10, L. 1993; amd. Sec. 8, Ch. 23, Sp. L. November 1993; amd. Sec. 8, Ch. 308, L. 1995; amd. Sec. 2, Ch. 361, L. 1997; amd. Sec. 13, Ch. 532, L. 1997; amd. Sec. 7, Ch. 569, L. 2001; amd. Sec. 1, Ch. 565, L. 2005; amd. Sec. 2, Ch. 581, L. 2005; amd. Sec. 3, Ch. 482, L. 2007; amd. Sec. 1, Ch. 426, L. 2009; amd. Sec. 13, Ch. 486, L. 2009; amd. Sec. 1, Ch. 204, L. 2017; amd. Sec. 2, Ch. 453, L. 2019.

17-7-305. Supplemental appropriations for legislative agencies. Deficiency appropriations, commonly referred to as a "supplemental appropriation", for a legislative branch agency must be included in a separate appropriation bill and may not be included in the bill appropriating money for the operation of the legislature, commonly referred to as the "feed bill".

History: En. Sec. 3, Ch. 618, L. 1979.

17-7-306 through 17-7-310 reserved.

17-7-311. Proposed fiscal year transfer supplemental appropriation — procedure. (1) A proposed supplemental appropriation to transfer appropriations between fiscal years of a biennium and all supporting documentation must be submitted to the legislative fiscal analyst. The governor may not approve a proposed fiscal year transfer supplemental appropriation until the governor receives the legislative finance committee's written report for that proposed fiscal year transfer supplemental appropriation unless:

(a) the report is not received within 90 calendar days from the date the proposed fiscal year transfer supplemental appropriation and supporting documentation were forwarded to the legislative finance committee, in which case the governor may approve the proposed fiscal year transfer supplemental appropriation; or

(b) there has been a waiver of the review and report requirements, as provided in subsection (4).

(2) The legislative fiscal analyst shall review each proposed fiscal year transfer supplemental appropriation submitted by the governor for compliance with statutory requirements and standards and to determine the expenditures that will be reduced in order to contain spending within legislative appropriations. The legislative fiscal analyst shall present a written report of this review to the legislative finance committee. Within 10 days after the legislative finance committee's consideration of the proposed fiscal year transfer supplemental appropriation, the legislative fiscal analyst shall submit the legislative finance committee's report to the governor.

(3) Upon receipt of the legislative finance committee's written report, the governor may approve or deny the proposed fiscal year transfer supplemental appropriation or may return the proposed fiscal year transfer supplemental appropriation to the requesting agency for further

information. If the governor has returned the proposed fiscal year transfer supplemental appropriation to the requesting agency and the requesting agency resubmits the proposed fiscal year transfer supplemental appropriation to the governor, all procedures provided in this section apply to the resubmitted proposed fiscal year transfer supplemental appropriation.

(4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the legislative fiscal analyst may waive the written review and the legislative finance committee's written report required by this section. After a waiver, the legislative fiscal analyst may complete the written review.

(b) Upon receipt of the waiver, the governor may approve the proposed fiscal year transfer supplemental appropriation.

(c) A waiver affects only the legislative fiscal analyst's written review and the legislative finance committee's written report on the proposed fiscal year transfer supplemental appropriation. All other proposed fiscal year transfer supplemental appropriation requirements and standards remain in effect.

(5) Nothing in this part confers on the legislative finance committee authority to approve or deny a proposed fiscal year transfer supplemental appropriation.

History: En. Sec. 2, Ch. 11, Sp. L. January 1992; amd. Sec. 2, Ch. 357, L. 1993; amd. Sec. 8, Ch. 569, L. 2001; amd. Sec. 5, Ch. 393, L. 2019; amd. Sec. 20, Ch. 415, L. 2019.

Compiler's Comments

Purported Repeal of Termination Provision: Section 2, Ch. 35, L. 2025, purported to repeal the termination of the sec. 20, Ch. 415, L. 2019, amendments to this section imposed by sec. 48, Ch. 415, Ch. 2019. However, because the amendments terminated prior to the repeal of the termination section, the repeal of the termination is ineffective.

Part 4
Budget Amendments

Part Cross-References

Submission of budget amendments to Legislative Finance Committee, 5-12-401.

17-7-401. Repealed. Sec. 19, Ch. 787, L. 1991.

History: En. Sec. 1, Ch. 536, L. 1983; amd. Sec. 5, Ch. 224, L. 1989; amd. Sec. 15, Ch. 16, L. 1991.

17-7-402. Budget amendment requirements. (1) Except as provided in subsection (7), a budget amendment may not be approved:

(a) by the approving authority, except a budget amendment to spend:

(i) additional federal revenue;

(ii) additional tuition collected by the Montana university system;

(iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies;

(iv) Montana historical society enterprise revenue resulting from sales to the public;

(v) additional revenue that is deposited in funds other than the general fund and that is from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91;

(vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an institution within the department of corrections;

(vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80, chapter 4, part 7;

(viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of Title 75, chapter 5, part 11;

(ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75, chapter 6, part 2;

(x) state special revenue adjustments required to allocate costs for leave or terminal leave within an agency in accordance with federal circular A-87;

(xi) revenue generated from fees collected by the department of justice for dissemination of criminal history record information pursuant to Title 44, chapter 5, part 3; or

(xii) additional state special funds identified in Chapter 573, Laws of 2021, as being eligible for budget amendments for the fiscal years beginning July 1, 2021, and July 1, 2022;

(b) by the approving authority if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority for the expenditure of money in the state special revenue fund unless:

(i) an emergency justifies the expenditure;

(ii) the expenditure is authorized under subsection (1)(a); or

(iii) the expenditure is exempt under subsection (5);

(d) by the approving authority unless it will provide additional services;

(e) by the approving authority for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) to extend beyond June 30 of the last year of any biennium, except that budget amendments for federal funds may extend to the end of the federal fiscal year.

(2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable commitment of present general fund support.

(3) Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by fiscal year.

(4) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst.

(5) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, is exempt from the requirements of this part.

(6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment must be submitted to the legislature for approval during a legislative session between January 1 and the senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal year and in both fiscal years of the next biennium.

(7) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1).

History: **En. Sec. 2, Ch. 536, L. 1983; amd. Sec. 3, Ch. 433, L. 1993; amd. Sec. 1, Ch. 36, L. 1995; amd. Sec. 58, Ch. 545, L. 1995; amd. Sec. 3, Ch. 556, L. 1995; amd. Sec. 1, Ch. 76, L. 1997; amd. Sec. 14, Ch. 532, L. 1997; amd. Sec. 3, Ch. 11, L. 1999; amd. Sec. 9, Ch. 569, L. 2001; amd. Sec. 3, Ch. 182, L. 2003; amd. Sec. 4, Ch. 332, L. 2003; amd. Sec. 19, Ch. 489, L. 2009; amd. Sec. 3, Ch. 491, L. 2021.**

17-7-403. Budget amendment certification. In approving a budget amendment, the approving authority shall make the following certifications and in addition shall provide all other information required below as an integral part of the certification:

(1) The approving authority shall certify that:

(a) specific additional services will be provided as a result of the expenditures to be permitted under this budget amendment and shall also list each specific service to be so provided;

(b) the specific services to be provided under this budget amendment are necessary;

(c) the agency requesting this budget amendment has no other reasonable alternative available to provide the additional services. The certification must specifically include determinations by the approving authority that the agency cannot provide all or specific parts or amounts of the additional services with existing appropriations or that the agency is unable within its existing appropriations to fund all or part of the additional services from any source lawfully available to it.

(d) the budget amendment makes no ascertainable present or future significant commitment for increased general fund support.

(2) For budget amendments to spend money in the state special revenue fund, except money from nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, the approving authority shall certify that an emergency justifies the expenditure and shall state the specific nature of the

emergency, the date on which the requesting agency became aware of the emergency, and the manner in which the requesting agency became aware of the emergency.

History: En. Sec. 3, Ch. 536, L. 1983; amd. Sec. 4, Ch. 433, L. 1993.

17-7-404. Budget amendment procedures. (1) Upon receiving a proposed budget amendment, the approving authority shall immediately forward a copy of the entire budget amendment to the legislative fiscal analyst.

(2) If the approving authority denies the request for a budget amendment, the approving authority shall immediately forward a notice of denial to the legislative fiscal analyst.

(3) If the approving authority intends to make certification of the budget amendment, immediately upon completion of the certification the approving authority shall forward the certification and all supporting documentation to the legislative fiscal analyst. If the approving authority has returned the budget amendment to the requesting agency and the requesting agency resubmits the budget amendment to the approving authority, all procedures set out in this section apply to the resubmitted budget amendment.

(4) This part does not confer any authority on the legislative finance committee to approve or deny budget amendments.

History: En. Sec. 4, Ch. 536, L. 1983; amd. Sec. 1, Ch. 457, L. 1985; amd. Sec. 59, Ch. 545, L. 1995.

17-7-405. Voidness of improperly certified budget amendments. Any budget amendment that is not certified by the approving authority according to the standards and procedures set out in this part may be declared void in its entirety by a court of competent jurisdiction on complaint of the attorney general, the legislature, or the legislative finance committee. No funds may be expended under an improperly certified budget amendment.

History: En. Sec. 5, Ch. 536, L. 1983.

Part 5
Statutory Appropriations

Part Cross-References

Appropriations not to be enacted by initiative, Art. III, sec. 4, Mont. Const.
Appropriations not to be subject of referendum, Art. III, sec. 5, Mont. Const.
State debt, Art. VIII, sec. 8, Mont. Const.
Balanced budget, Art. VIII, sec. 9, Mont. Const.
Disbursement and expenditure, Title 17, ch. 8.

17-7-501. Appropriations — type. There are three types of appropriations within the meaning of "appropriation made by law" as used in Article VIII, section 14, of the Montana constitution:

(1) temporary appropriations enacted by the legislature as part of designated appropriation bills or sections designated as appropriations in other bills;

(2) temporary appropriations made by valid budget amendment; and

(3) statutory appropriations made by permanent law in conformance with 17-7-502.

History: En. Sec. 1, Ch. 703, L. 1985.

17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-1-2307; 15-6-407; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-5-417; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607;

19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-516; 20-9-622; 20-15-328; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 33-22-1321; 37-1-125; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 53-1-109; 53-6-148; [53-6-152]; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 61-3-416; 67-1-309; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-11-708; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-1-627; 87-5-909; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. *(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 5, Ch. 129, L. 2025, the inclusion of 37-1-125 terminates June 30, 2031; pursuant to sec. 1, Ch. 181, L. 2025, and sec. 3, Ch. 181, L. 2025, the inclusion of 90-6-331 terminates June 30, 2035; pursuant to sec. 19, Ch. 420, L. 2025, the inclusion of 53-6-152 is effective on occurrence of contingency; pursuant to sec. 20, Ch. 420, L. 2025, the inclusion of 53-6-152 is void on occurrence of contingency; pursuant to sec. 21, Ch. 420, L. 2025, the inclusion of 53-6-152 terminates June 30, 2033; pursuant to sec. 5, Ch. 645, L. 2025, the inclusion of 33-22-1321 terminates June 30, 2031; and pursuant to sec. 29, Ch. 767, L. 2025, the inclusion of 15-1-2307 terminates June 30, 2026.)*

History: En. Sec. 2, Ch. 703, L. 1985; amd. Sec. 2, Ch. 244, L. 1985; amd. Sec. 11, Ch. 395, L. 1985; amd. Sec. 20, Ch. 635, L. 1985; amd. Sec. 19, Ch. 688, L. 1985; amd. Sec. 14, Ch. 701, L. 1985; amd. Sec. 14, Ch. 720, L. 1985; amd. Sec. 15, HB 861, L. 1985; amd. Sec. 10, HB 922, L. 1985; amd. Sec. 10, Ch. 161, L. 1987; amd. Sec. 2, Ch. 164, L. 1987; amd. Sec. 1, Ch. 265, L. 1987; amd. Sec. 8, Ch. 453, L. 1987; amd. Sec. 3, Ch. 454, L. 1987; amd. Sec. 30, Ch. 457, L. 1987; amd. Sec. 10, Ch. 460, L. 1987; amd. Sec. 21, Ch. 461, L. 1987; amd. Sec. 6, Ch. 465, L. 1987; amd. Sec. 11, Ch. 563, L. 1987; amd. Sec. 10, Ch. 603, L. 1987; amd. Sec. 10, Ch. 607, L. 1987; amd. Sec. 5, Ch. 664, L. 1987; amd. Sec. 14, Ch. 665, L. 1987; amd. Sec. 12, HB 621, L. 1987; amd. Sec. 1, Ch. 62, L. 1989; amd. Sec. 38, Ch. 262, L. 1989; amd. Sec. 23, Ch. 316, L. 1989; amd. Sec. 7, Ch. 324, L. 1989; amd. Sec. 1, Ch. 408, L. 1989; amd. Sec. 11, Ch. 473, L. 1989; amd. Sec. 13, Ch. 528, L. 1989; amd. Sec. 2, Ch. 530, L. 1989; amd. Sec. 3, Ch. 628, L. 1989; amd. Sec. 62, Ch. 642, L. 1989; amd. Sec. 13, Ch. 672, L. 1989; amd. Sec. 14, Ch. 678, L. 1989; amd. Sec. 10, Ch. 10, Sp. L. June 1989; amd. Sec. 6, Ch. 11, Sp. L. June 1989; amd. Sec. 16, Ch. 16, L. 1991; amd. Sec. 1, Ch. 344, L. 1991; amd. Sec. 2, Ch. 370, L. 1991; amd. Sec. 4, Ch. 394, L. 1991; amd. Sec. 2, Ch. 493, L. 1991; amd. Sec. 1, Ch. 495, L. 1991; amd. Sec. 2, Ch. 567, L. 1991; amd. Sec. 4, Ch. 571, L. 1991; amd. Sec. 1, Ch. 575, L. 1991; amd. Sec. 2, Ch. 600, L. 1991; amd. Sec. 10, Ch. 602, L. 1991; amd. Sec. 19, Ch. 609, L. 1991; amd. Sec. 5, Ch. 641, L. 1991; amd. Sec. 52, Ch. 647, L. 1991; amd. Sec. 1, Ch. 690, L. 1991; amd. Sec. 7, Ch. 701, L. 1991; amd. Sec. 14, Ch. 748, L. 1991; amd. Sec. 7, Ch. 787, L. 1991; amd. Sec. 3, Ch. 819, L. 1991; amd. Sec. 18, Ch. 823,

L. 1991; amd. Sec. 2, Ch. 46, L. 1993; amd. Sec. 4, Ch. 69, L. 1993; amd. Sec. 3, Ch. 107, L. 1993; amd. Sec. 5, Ch. 108, L. 1993; amd. Sec. 3, Ch. 127, L. 1993; amd. Sec. 2, Ch. 195, L. 1993; amd. Sec. 2, Ch. 234, L. 1993; amd. Sec. 233, Ch. 265, L. 1993; amd. Sec. 3, Ch. 330, L. 1993; amd. Sec. 2, Ch. 389, L. 1993; amd. Sec. 3, Ch. 395, L. 1993; amd. Sec. 8, Ch. 415, L. 1993; amd. Sec. 4, Ch. 450, L. 1993; amd. Sec. 15, Ch. 452, L. 1993; amd. Sec. 2, Ch. 492, L. 1993; amd. Sec. 11, Ch. 526, L. 1993; amd. Sec. 9, Ch. 534, L. 1993; amd. Sec. 18, Ch. 555, L. 1993; amd. Sec. 4, Ch. 578, L. 1993; amd. Sec. 7, Ch. 581, L. 1993; amd. Sec. 4, Ch. 605, L. 1993; amd. Sec. 13, Ch. 613, L. 1993; amd. Sec. 6, Ch. 625, L. 1993; amd. Sec. 11, Ch. 630, L. 1993; amd. Sec. 3, Ch. 635, L. 1993; amd. Sec. 18, Ch. 10, Sp. L. November 1993; amd. Sec. 2, Ch. 36, Sp. L. November 1993; amd. Sec. 33, Ch. 18, L. 1995; amd. Sec. 3, Ch. 29, L. 1995; amd. Sec. 9, Ch. 176, L. 1995; amd. Sec. 5, Ch. 291, L. 1995; amd. Sec. 20, Ch. 429, L. 1995; amd. Sec. 7, Ch. 439, L. 1995; amd. Sec. 4, Ch. 442, L. 1995; amd. Sec. 2, Ch. 446, L. 1995; amd. Sec. 37, Ch. 451, L. 1995; amd. Sec. 11, Ch. 502, L. 1995; amd. Sec. 24, Ch. 509, L. 1995; amd. Sec. 8, Ch. 526, L. 1995; amd. Sec. 17, Ch. 553, L. 1995; amd. Sec. 2, Ch. 557, L. 1995; amd. Sec. 3, Ch. 276, L. 1997; amd. Secs. 26, 27, Ch. 422, L. 1997; amd. Sec. 1, Ch. 445, L. 1997; amd. Sec. 3, Ch. 461, L. 1997; amd. Sec. 12, Ch. 466, L. 1997; amd. Sec. 12, Ch. 469, L. 1997; amd. Sec. 159, Ch. 480, L. 1997; amd. Sec. 1, Ch. 523, L. 1997; amd. Secs. 15, 39(1)(b), (2)(b), Ch. 532, L. 1997; amd. Sec. 11, Ch. 549, L. 1997; amd. Sec. 46, Ch. 51, L. 1999; amd. Sec. 14, Ch. 83, L. 1999; amd. Sec. 3, Ch. 360, L. 1999; amd. Sec. 12, Ch. 389, L. 1999; amd. Sec. 3, Ch. 497, L. 1999; amd. Sec. 8, Ch. 554, L. 1999; amd. Sec. 6, Ch. 563, L. 1999; amd. Sec. 3, Ch. 10, Sp. L. May 2000; amd. Sec. 29, Ch. 7, L. 2001; amd. Sec. 9, Ch. 414, L. 2001; amd. Sec. 1, Ch. 500, L. 2001; amd. Sec. 3, Ch. 554, L. 2001; amd. Sec. 11, Ch. 567, L. 2001; amd. Sec. 107, Ch. 574, L. 2001; amd. Sec. 6, Ch. 577, L. 2001 (voided by I.R. No. 117, Nov. 5, 2002); amd. Sec. 24, Ch. 585, L. 2001; amd. Sec. 3, Ch. 594, L. 2001; amd. Sec. 1, Ch. 10, Sp. L. August 2002; amd. Sec. 9, Ch. 13, Sp. L. August 2002; amd. Sec. 2, Ch. 43, L. 2003; amd. Sec. 1, Ch. 140, L. 2003; amd. Sec. 1, Ch. 353, L. 2003; amd. Sec. 2, Ch. 355, L. 2003; amd. Sec. 15, Ch. 397, L. 2003; amd. Sec. 2, Ch. 481, L. 2003; amd. Sec. 10, Ch. 522, L. 2003; amd. Sec. 2, Ch. 533, L. 2003; amd. Sec. 5, Ch. 223, L. 2005; amd. Sec. 1, Ch. 314, L. 2005; amd. Secs. 8, 9, Ch. 324, L. 2005; amd. Sec. 1, Ch. 327, L. 2005; amd. Sec. 2, Ch. 421, L. 2005; amd. Sec. 3, Ch. 464, L. 2005; amd. Sec. 2, Ch. 482, L. 2005; amd. Sec. 4, Ch. 524, L. 2005; amd. Sec. 6, Ch. 525, L. 2005; amd. Sec. 3, Ch. 581, L. 2005; amd. Sec. 7, Ch. 588, L. 2005; amd. Sec. 12, Ch. 593, L. 2005; amd. Sec. 3, Ch. 600, L. 2005; amd. Sec. 5, Ch. 602, L. 2005; amd. Sec. 2, Ch. 89, L. 2007; amd. Sec. 1, Ch. 121, L. 2007; amd. Sec. 7, Ch. 230, L. 2007; amd. Sec. 3, Ch. 247, L. 2007; amd. Sec. 2, Ch. 305, L. 2007; amd. Sec. 1, Ch. 306, L. 2007; amd. Sec. 3, Ch. 308, L. 2007; amd. Sec. 2, Ch. 309, L. 2007; amd. Sec. 12, Ch. 311, L. 2007; amd. Sec. 2, Ch. 327, L. 2007; amd. Sec. 7, Ch. 432, L. 2007; amd. Sec. 5, Ch. 6, Sp. L. May 2007; amd. Sec. 2, Ch. 2, Sp. L. September 2007; amd. Sec. 2, Ch. 103, L. 2009; amd. Sec. 2, Ch. 227, L. 2009; amd. Sec. 2, Ch. 264, L. 2009; amd. Sec. 1, Ch. 330, L. 2009; amd. Sec. 2, Ch. 374, L. 2009; amd. Sec. 5, Ch. 390, L. 2009; amd. Sec. 2, Ch. 426, L. 2009; amd. Sec. 1, Ch. 427, L. 2009; amd. Sec. 1, Ch. 441, L. 2009; amd. Sec. 1, Ch. 442, L. 2009; amd. Sec. 5, Ch. 484, L. 2009; amd. Sec. 5, Ch. 485, L. 2009; amd. Sec. 20, Ch. 489, L. 2009; amd. Sec. 1, Ch. 57, L. 2011; amd. Sec. 9, Ch. 58, L. 2011; amd. Sec. 1, Ch. 61, L. 2011; amd. Sec. 2, Ch. 147, L. 2011; amd. Sec. 7, Ch. 339, L. 2011; amd. Secs. 3, 4, Ch. 17, L. 2013; amd. Sec. 1, Ch. 244, L. 2013; amd. Sec. 3, Ch. 368, L. 2013; amd. Sec. 6, Ch. 413, L. 2013; amd. Sec. 2, Ch. 291, L. 2015; amd. Sec. 20, Ch. 368, L. 2015; amd. Sec. 3, Ch. 383, L. 2015; amd. Sec. 5, Ch. 385, L. 2015; amd. Sec. 3, Ch. 422, L. 2015; amd. Sec. 3, Ch. 423, L. 2015; amd. Sec. 3, Ch. 427, L. 2015; amd. Sec. 1, Ch. 432, L. 2015; amd. Sec. 1, Ch. 433, L. 2015; amd. Sec. 26, Ch. 457, L. 2015; amd. Sec. 1, Ch. 32, L. 2017; amd. Sec. 1, Ch. 55, L. 2017; amd. Sec. 3, Ch. 77, L. 2017; amd. Sec. 9, Ch. 106, L. 2017; amd. Sec. 2, Ch. 122, L. 2017; amd. Sec. 6, Ch. 247, L. 2017; amd. Sec. 3, Ch. 250, L. 2017; amd. Sec. 13, Ch. 267, L. 2017; amd. Sec. 3, Ch. 284, L. 2017; amd. Sec. 10, Ch. 312, L. 2017; amd. Sec. 12, Ch. 326, L. 2017; amd. Sec. 1, Ch. 336, L. 2017; amd. Sec. 9, Ch. 351, L. 2017; amd. Sec. 3, Ch. 360, L. 2017; amd. Sec. 5, Ch. 364, L. 2017; amd. Sec. 23, Ch. 367, L. 2017; amd. Sec. 6, Ch. 374, L. 2017; amd. Sec. 6, Ch. 343, L. 2019; amd. Sec. 13, Ch. 352, L. 2019; amd. Sec. 1, Ch. 354, L. 2019; amd. Sec. 1, Ch. 376, L. 2019; amd. Sec. 21, Ch. 415, L. 2019; amd. Sec. 2, Ch. 434, L. 2019; amd. Sec. 3, Ch. 453, L. 2019; amd. Sec. 7, Ch. 455, L. 2019; amd. Sec. 3, Ch. 465, L. 2019; amd. Sec. 2, Ch. 477, L. 2019; amd. Sec. 2, Ch. 112, L. 2021; amd. Sec. 2, Ch. 193, L. 2021; amd. Sec. 4, Ch. 200, L. 2021; amd. Sec. 2, Ch. 225, L. 2021; amd. Sec. 3, Ch. 348, L. 2021; amd. Sec. 3, Ch. 415, L. 2021; amd. Sec. 4, Ch. 437, L. 2021; amd. Sec. 5, Ch. 563, L. 2021; amd. Sec. 9, Ch. 574, L. 2021; amd. Sec. 4, Ch. 44, L. 2023; amd. Sec. 6, Ch. 47, L. 2023; amd. Sec. 3, Ch. 48, L. 2023; amd. Sec. 2, Ch. 49, L. 2023; amd. Sec. 1, Ch. 75, L. 2023; amd. Sec. 6, Ch. 123, L. 2023; amd. Sec. 2, Ch. 134, L. 2023; amd. Sec. 5, Ch. 558, L. 2023; amd. Sec. 11, Ch. 616, L. 2023; amd. Sec. 3, Ch. 698, L. 2023; amd. Sec. 7, Ch. 722, L. 2023; amd. Sec. 5, Ch. 729, L. 2023; amd. Sec. 5, Ch. 758, L. 2023; amd. Sec. 3, Ch. 764, L. 2023; amd. Sec. 6, Ch. 770, L. 2023; amd. Sec. 13, Ch. 53, L. 2025; amd. Sec. 2, Ch. 129, L. 2025; amd. Sec. 15, Ch. 420, L. 2025; amd. Sec. 9, Ch. 475, L. 2025; amd. Sec. 2, Ch. 476, L. 2025; amd. Sec. 3, Ch. 540, L. 2025; amd. Sec. 2, Ch. 636, L. 2025; amd. Sec. 2, Ch. 642, L. 2025; amd. Sec. 1, Ch. 645, L. 2025; amd. Sec. 2, Ch. 687, L. 2025; amd. Sec. 1, Ch. 704, L. 2025; amd. Sec. 2, Ch. 736, L. 2025; amd. Sec. 23, Ch. 767, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: Section 13, Ch. 53, L. 2025, deleted brackets around "20-15-328" in list of statutory references. Amendment effective October 1, 2025.

Section 2, Ch. 129, L. 2025, inserted "37-1-125" in list of statutory references. Amendment effective July 1, 2025, and terminates June 30, 2031.

Section 15, Ch. 420, L. 2025, inserted "53-6-152" in list of statutory references. Amendment effective on occurrence of contingency, void on occurrence of contingency, and terminates June 30, 2033.

Section 9, Ch. 475, L. 2025, inserted "75-11-708" in list of statutory references. Amendment effective October 1, 2025.

Section 2, Ch. 476, L. 2025, deleted "69-3-870" from list of statutory references. Amendment effective May 8, 2025.

Section 3, Ch. 540, L. 2025, inserted "87-1-627" in list of statutory references. Amendment effective May 8, 2025.

Section 2, Ch. 636, L. 2025, inserted "19-6-404" in list of statutory references. Amendment effective July 1, 2025.

Section 2, Ch. 642, L. 2025, inserted "18-5-417" in list of statutory references. Amendment effective July 1, 2025.

Section 1, Ch. 645, L. 2025, inserted "33-22-1321" in list of statutory references. Amendment effective May 12, 2025, and terminates June 30, 2031.

Section 2, Ch. 687, L. 2025, substituted "20-9-516" for "20-9-534" in list of statutory references. Amendment effective July 1, 2025.

Section 1, Ch. 704, L. 2025, deleted "90-1-115" from list of statutory references. Amendment effective December 31, 2025.

Section 2, Ch. 736, L. 2025, inserted "61-3-416" in list of statutory references. Amendment effective January 1, 2026.

Section 23, Ch. 767, L. 2025, inserted "15-1-2307" and "15-6-407" in list of statutory references. Amendment effective May 13, 2025, and the inclusion of "15-1-2307" terminates June 30, 2026.

Purported Repeal of Termination Provision: Although sec. 2, Ch. 35, L. 2025, purported to repeal the termination of the inclusion of the reference to 53-6-1304 in this section imposed by sec. 28, Ch. 368, L. 2015, the termination was previously rendered ineffective by the sec. 21, Ch. 415, L. 2019, amendment to this section, which deleted the reference to 53-6-1304.

Extension of Termination Date: Section 1, Ch. 181, L. 2025, and sec. 3, Ch. 181, L. 2025, amended sec. 5, Ch. 442, L. 2009, and sec. 1, Ch. 213, L. 2017, by extending the termination date of the reference to 90-6-331 to June 30, 2035. Effective October 1, 2025.

Termination Provision Repealed: Section 1, Ch. 235, L. 2025, repealed sec. 6, Ch. 423, L. 2015, which terminated the references to 22-3-116 and 22-3-117 June 30, 2025. Effective May 1, 2025.

Termination Provision Removed: Section 5, Ch. 605, L. 2025, amended sec. 10, Ch. 758, L. 2023, by removing the June 30, 2027, termination of the reference to 44-4-1506. Effective May 13, 2025.

Applicability — Retroactive Applicability: Section 12, Ch. 636, L. 2025, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to the employer contribution rates on or after July 1, 2023, for the highway patrol officers' retirement system, the sheriffs' retirement system, and the game wardens' and peace officers' retirement system."

Section 28, Ch. 767, L. 2025, provided: "(1) Except as provided in subsection (2), [this act] [15-1-121, 15-1-124, 15-1-2305 through 15-1-2307, 15-6-133, 15-6-134 (amendments effective May 13, 2025), 15-6-401, 15-30-2120, and 17-7-502] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2024.

(2) [Sections 5 through 10, 15 through 21, and 24] [15-6-134 (amendments effective January 1, 2026), 15-6-402, 15-6-405, 15-6-407, 15-6-411, 15-6-415, 15-6-418, 15-6-425, 15-7-102, 15-15-101 through 15-15-103, 15-16-101, and 15-17-125] apply to property tax years beginning after December 31, 2025."

Contingent Effective Date: Section 19, Ch. 420, L. 2025, provided: "[This act] is effective on approval by the United States department of health and human services of all waivers and approvals necessary to implement the assessment fee and supplemental payments as provided in [sections 1 through 15] [Title 15, chapter 27, 53-6-152, and amendments to 17-7-502]. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency."

Contingent Voidness: Section 20, Ch. 420, L. 2025, provided: "(1) [Sections 1 through 15] [Title 15, chapter 27, 53-6-152, and amendments to 17-7-502] are void on the date that federal law or policy is amended so that the assessment fee collected pursuant to [sections 1 through 15] may not be considered as the state's share in claiming federal financial participation under the medicaid program. The department of public health and human services shall submit certification of the change in federal law or policy to the code commissioner within 15 days of the occurrence of the contingency.

(2) If [sections 1 through 15] [Title 15, chapter 27, 53-6-152, and amendments to 17-7-502] are rendered void under the provisions of this section, all fees received or collected by the department of revenue prior to the date on which the act becomes void must be deposited in accordance with [section 2] [15-27-102], and a person or party may not receive a refund of any fees received or collected by the department prior to the date on which [sections 1 through 15] become void.

(3) If the United States department of health and human services fails to approve the ambulance provider supplemental payments, [sections 1 through 15] [Title 15, chapter 27, 53-6-152, and amendments to 17-7-502] are void. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency."

Contingent Effective Date: Section 5, Ch. 383, L. 2015, provided: "[This act] is effective when the state receives money from Bonneville Power Administration, the United States federal government, BC Hydro, the British Columbia provincial government, or the federal government of Canada or from another entity that benefits from the waters stored in Lincoln County through irrigation, navigation, recreation, hydropower generation, or other uses."

Contingent Termination: Section 10, Ch. 360, L. 1999, provided: "[Sections 2 and 3] [enacting 19-20-604 and amending 17-7-502] terminate when the amortization period for the system's unfunded liability is 10 years or less according to the system's latest actuarial valuation. The teachers' retirement board shall notify the governor and the code commissioner on occurrence of this contingency."

CHAPTER 8
DISBURSEMENT AND EXPENDITURE

Part 1 — Limits on Disbursements and Expenditures

17-8-101. Appropriation and disbursement of money from treasury.
17-8-102. Expenditure procedures — quarterly allotment system.
17-8-103. Expenditures in excess of appropriation unlawful — conditions in appropriation acts.
17-8-104. Civil penalties and remedies for violation.
17-8-105. Definitions applicable to expenditure limitation.
17-8-106. Expenditure limitation — exception.

17-8-107. Limitations on spending deferred inflows of resources — exception — definition.
17-8-108. Prohibited uses of public funds.

Part 2 — Claims

17-8-201. Authorizations for disbursements — submission of claim to department of administration.
17-8-202. Preaudit and transmittal of claims.
17-8-203. Minimum refunds.
17-8-204 through 17-8-210 reserved.
17-8-211. Notice required for assignment of claims against state.
17-8-212. Effect of assignment.
17-8-213 through 17-8-220 reserved.
17-8-221. Repealed.
17-8-222. Repealed.
17-8-223. Repealed.
17-8-224. Repealed.
17-8-225. Repealed.
17-8-226. Repealed.
17-8-227 through 17-8-230 reserved.
17-8-231. Repealed.
17-8-232 through 17-8-240 reserved.
17-8-241. Definitions relating to interest assessment.
17-8-242. Interest assessed on amounts due.
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Part 3 — Warrants

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17-8-413. Settlement by government attorney.
17-8-414 and 17-8-415 reserved.
17-8-416. Reporting.

Chapter Cross-References

Prohibited payments, Art. VIII, sec. 14, Mont. Const.
Treasurer to withhold payment, 2-2-206.

Part 1
Limits on Disbursements and Expenditures

Part Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.
Use of loan proceeds, Art. VIII, sec. 11, Mont. Const.
Prohibited payments, Art. VIII, sec. 14, Mont. Const.
Fiscal note to evidence change in expenditures, 5-4-205.

17-8-101. Appropriation and disbursement of money from treasury. (1) For purposes of complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), and the capital projects fund type, with the exception of refunds authorized in subsection (4), may be paid out of the treasury only on appropriation made by law.

(2) Subject to the provisions of subsection (8), money deposited in the enterprise fund type, debt service fund type, internal service fund type, private purpose trust fund type, custodial fund type, and state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, may be paid out of the treasury:

(a) by appropriation; or

(b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement if a subclass is established on the state financial system.

(3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes. Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust agreement, or contract.

(4) Money paid into the state treasury through error or under circumstances such that the state is not legally entitled to retain it and a refund procedure is not otherwise provided by law may be refunded upon the submission of a verified claim approved by the department.

(5) Authority to expend appropriated money may be transferred from one state agency to another, provided that the original purpose of the appropriation is maintained.

(6) Fees and charges for services deposited in the internal service fund type must be based upon commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit and report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

(7) The creation of accounts in the enterprise fund or the internal service fund must be approved by the department, using conformity with generally accepted accounting principles as the primary approval criteria. The department shall report annually to the office of budget and program planning and the legislative fiscal analyst on the nature, status, and justification for all new accounts in the enterprise fund and the internal service fund. The report must be provided in an electronic format.

(8) Enterprise and internal service funds must be appropriated if they are used as a part of a program that is not an enterprise or internal service function and that otherwise requires an appropriation. An enterprise fund that is required by law to transfer money to the general fund or to any other appropriated fund is subject to appropriation. The payment of funds into an internal service fund must be authorized by law.

History: **En. Sec. 7, Ch. 147, L. 1963; amd. Sec. 2, Ch. 268, L. 1971; amd. Sec. 2, Ch. 321, L. 1973; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-415(1) thru (3); amd. Sec. 1, Ch. 29, L. 1981; amd. Sec. 13, Ch. 281, L. 1983; amd. Sec. 5, Ch. 433, L. 1993; amd. Sec. 4, Ch. 556, L. 1995; amd. Sec. 99, Ch. 42, L. 1997; amd. Sec. 18, Ch. 347, L. 1997; amd. Sec. 16, Ch. 532, L. 1997; amd. Sec. 3, Ch. 20, L. 1999; amd. Sec. 11, Ch. 34, L. 2001; amd. Sec. 10, Ch. 569, L. 2001; amd. Sec. 3, Ch. 225, L. 2009; amd. Sec. 10, Ch. 120, L. 2013; amd. Sec. 6, Ch. 185, L. 2019.**

Cross-References

Authorization to expend during first year of biennium from appropriation for second year, 17-7-301.

Minimum refunds, 17-8-203.

17-8-102. Expenditure procedures — quarterly allotment system. (1) The department may establish procedures necessary to ensure that expenditures are made and accounted for in accordance with the budget plan authorized by the legislature in the enactment of the appropriations, including but not limited to procedures to accrue expenses incurred in one fiscal period and paid in a subsequent fiscal period and procedures for the issuance of purchase orders or contracts to be paid from succeeding year appropriations that will become available within 3 months from the date of the issuance of the purchase order or contract.

(2) The budget director may, when authorized by the governor, require a quarterly allotment system of expenditure for any office, institution, or agency. The amount of the respective appropriation made by the legislature shall then, except with respect to items of capital outlay and repairs and replacement through the long-range building program, be made

available to the office, institution, or agency in quarterly allotments. However, the quarterly allotment shall be based on the requirements of that office, institution, or agency during that quarter based on previous experience of that office, institution, or agency and not on a prorated quarterly basis.

History: En. Sec. 4, Ch. 194, L. 1951; amd. Sec. 1, Ch. 101, L. 1953; amd. Sec. 8, Ch. 158, L. 1959; amd. Sec. 3, Ch. 267, L. 1971; amd. Sec. 45, Ch. 326, L. 1974; R.C.M. 1947, 82-109(3), (4); (2)En. Sec. 1, Ch. 118, L. 1979; amd. Sec. 2, Ch. 118, L. 1979.

Cross-References

Contingent revolving accounts — when established, 17-2-201.
Reappropriation of encumbered obligations at end of each fiscal year, 17-7-303.
Appropriation and disbursement of money from treasury, 17-8-101.

17-8-103. Expenditures in excess of appropriation unlawful — conditions in appropriation acts. (1) It shall be unlawful for the board of trustees, executive board, managerial staff, president, deans and faculty, or any other authority of any state institution maintained in whole or in part by the state or any officer, department, board, commission, or bureau, having charge of the disbursement or expenditure of the income provided by legislative appropriation or otherwise, to expend, contract for the expenditure, or to incur or permit the incurring of any obligation whatsoever, in any one year, in excess of the legislative appropriation, including any approved, authorized, and valid budget amendment, provided for such year or for any supervisory board or authority either directly or indirectly to authorize, direct, or order any such institution, officer, department, board, commission, or bureau to increase any expenditures, except as specifically provided by law. It shall be and is hereby made the duty of any and all of such institutions, officers, departments, boards, commissions, and bureaus to keep such expenditures, obligations, and liabilities within the amount of such legislative appropriation, which includes an approved, authorized, and valid budget amendment.

(2) A condition or limitation contained in an appropriation act shall govern the administration and expenditure of the appropriation until the appropriation has been expended for the purpose set forth in the act or until such condition or limitation is changed by a subsequent appropriation act. In no event does a condition or limitation contained in an appropriation act amend any other statute.

History: En. Sec. 1, Ch. 40, L. 1937; amd. Sec. 2, Ch. 82, L. 1961; amd. Sec. 11, Ch. 343, L. 1977; R.C.M. 1947, 79-901; amd. Sec. 1, Ch. 618, L. 1979; amd. Sec. 8, Ch. 536, L. 1983; (2)En. Sec. 1, Ch. 693, L. 1983.

Cross-References

Contents of appropriation bill, Art. V, sec. 11, Mont. Const.
Authorization to expend during first year of biennium from appropriation for second year, 17-7-301.
Control of expenditures, 20-25-425.

17-8-104. Civil penalties and remedies for violation. (1) (a) Any authority or member of a board of trustees or any person, officer, or employee violating the provisions of 17-8-103(1) is personally liable and the surety or sureties on that individual's bond is also liable to the state for the amount of the excess unlawfully expended. An action under this subsection (1)(a) may be brought upon complaint of the attorney general, of the legislature by joint resolution, of the legislative finance committee, or of any taxpayer, filed in a district court of this state.

(b) Any authority or member of a board of trustees or any person, officer, or employee violating the provisions of 17-8-103(1) is guilty of misfeasance in office and guilty of wrongdoing and is subject to removal from office or from employment. An action under this subsection (1)(b) may be brought upon complaint of the attorney general, the legislature by joint resolution, or any taxpayer, filed in a district court of this state.

(2) Complaints under subsections (1)(a) and (1)(b) may be combined in a single action.

(3) Remedies and penalties provided by this section may be pursued singly or in any combination.

History: En. Sec. 4, Ch. 40, L. 1937; amd. Sec. 3, Ch. 82, L. 1961; R.C.M. 1947, 79-904; amd. Sec. 2, Ch. 618, L. 1979; amd. Sec. 9, Ch. 536, L. 1983; amd. Sec. 220, Ch. 56, L. 2009.

Cross-References

General provisions related to official bonds, Title 2, ch. 9, part 5.
Bonds of state officers and employees, Title 2, ch. 9, part 6.
Public offices — vacancies created, 2-16-501.
Notice of removal, 2-16-503.

17-8-105. Definitions applicable to expenditure limitation. As used in 17-8-106, the following definitions apply:

(1) "Montana total personal income" means the current income from all sources received during a particular period of time by persons residing within Montana as determined by the United States department of commerce or its successor agency.

(2) "State expenditures" means the general fund appropriations, the special revenue fund type appropriations, and the cash portion of the appropriations in the capital projects fund type, excluding:

(a) money received from the federal government;

(b) payments of principal and interest on bonded indebtedness;

(c) money paid for unemployment or disability insurance benefits;

(d) money received from the sale of goods or services provided that the purchase of the goods or services is discretionary;

(e) money paid from permanent endowments, constitutional trusts, or pension funds;

(f) proceeds of gifts or bequests made for purposes specified by the donor;

(g) money appropriated for tax relief; and

(h) funds transferred within state government or used to purchase goods for resale.

History: En. Sec. 1, Ch. 514, L. 1981; amd. Sec. 14, Ch. 281, L. 1983.

17-8-106. Expenditure limitation — exception. (1) Except as provided in subsection (2), the state expenditures for a biennium may not exceed the state expenditures for the preceding biennium plus the product of the state expenditures for the preceding biennium and the growth percentage. The growth percentage is the percentage difference between the average Montana total personal income for the 3 calendar years immediately preceding the next biennium and the average Montana total personal income for the 3 calendar years immediately preceding the current biennium.

(2) The legislature may appropriate funds in excess of this limit from the reserve account if:

(a) the governor declares that an emergency exists; and

(b) two-thirds of the members of each house approve a bill stating the amount to be spent in excess of the expenditures limitation established in subsection (1), the source of the excess revenue to be spent, and an intention to exceed the limitation.

(3) Expenditures may exceed the expenditures limitation only for the year or years for which an emergency has been declared.

(4) The legislature is not required to appropriate the full amount allowed in any year under subsection (1).

History: En. Sec. 2, Ch. 514, L. 1981.

17-8-107. Limitations on spending deferred inflows of resources — exception — definition. (1) Except as provided in subsection (2), no agency, including any unit of the university system, may expend deferred inflows of resources for current fiscal year operations.

(2) The Montana historical society is exempt from the provisions of subsection (1) to the extent that the expenditure of deferred inflows of resources received from magazine subscription fees is necessary to finance current fiscal year operations for the publication of its magazine of western history.

(3) For purposes of this section, "deferred inflows of resources" means funds received in 1 fiscal year but properly allocable and recorded as revenue in the subsequent fiscal year.

History: En. Sec. 1, Ch. 573, L. 1983; amd. Sec. 1, Ch. 52, L. 1987; amd. Sec. 1, Ch. 7, L. 2015.

17-8-108. Prohibited uses of public funds. Public funds or money may not be expended for an abortion. The limitations contained in this section do not apply to an abortion:

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case in which a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

History: En. Sec. 1, Ch. 491, L. 2023.

Part 2
Claims

Part Cross-References
State insurance plan and tort claims, Title 2, ch. 9.
Board of Examiners — allocation, 2-15-1007.
Claim settlement by Attorney General, 18-1-412, 18-1-413.
Verification of pleadings, 25-4-203.

17-8-201. Authorizations for disbursements — submission of claim to department of administration. (1) All authorizations for disbursements must be given by the agency concerned, and a record must be kept by the agency of all the authorizations and expenditures. Claims for any disbursement must be submitted to the department of administration.

(2) The department may prescribe the claim form and may establish, in writing, rules governing the preparation, submittal, and processing of claims. All claims must be processed in the order of their presentation, and the department shall notify the agency of any disapproved claim.

History: (1)En. Sec. 1, Ch. 97, L. 1961; amd. Sec. 46, Ch. 326, L. 1974; 82-109.1, R.C.M. 1947; (2)En. Sec. 3, Ch. 97, L. 1961; amd. Sec. 48, Ch. 326, L. 1974; Sec. 82-109.3, R.C.M. 1947; R.C.M. 1947, 82-109.1, 82-109.3; amd. Sec. 1, Ch. 87, L. 1989; amd. Sec. 9, Ch. 48, L. 1997.

Cross-References
Appropriation and disbursement of money from treasury, 17-8-101.

17-8-202. Preaudit and transmittal of claims. (1) The department of administration is not required to preaudit a liquidated claim against the state. However, the department may preaudit those claims it considers necessary. The agency shall retain the original of all documents that support claims sent to the department. These documents are subject to postaudit by the legislative auditor.

(2) An office or entity of the executive, legislative, or judicial branch of state government may not make any charge against any appropriation unless the balance of the appropriation is available and adequate. If an appropriation is not available for the payment of a claim, the agency shall transmit the claim to the governor for presentation to the legislature.

History: En. Sec. 2, Ch. 97, L. 1961; amd. Sec. 29, Ch. 271, L. 1963; amd. Sec. 1, Ch. 91, L. 1969; amd. Sec. 47, Ch. 326, L. 1974; R.C.M. 1947, 82-109.2; amd. Sec. 1, Ch. 498, L. 1979; amd. Sec. 1, Ch. 88, L. 1985; amd. Sec. 2, Ch. 87, L. 1989; amd. Sec. 1, Ch. 353, L. 1989; amd. Sec. 10, Ch. 48, L. 1997.

Cross-References
Legislative Auditor — powers and duties, 5-13-304.

17-8-203. Minimum refunds. When not specifically provided by law, the department may establish a minimum amount which shall be paid on a refund due from the various agencies of the state, and no refund amounting to less than the established minimum shall be paid except upon the specific written request of the person entitled to receive the refund.

History: En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971; amd. Sec. 50, Ch. 326, L. 1974; R.C.M. 1947, 82-110(4).

Cross-References
Appropriation and disbursement of money from treasury, 17-8-101.

17-8-204 through 17-8-210 reserved.

17-8-211. Notice required for assignment of claims against state. (1) All transfers and assignments made of any claim against the state, or any part of or interest on the claim, except as provided in this section, are void and unenforceable against the state unless the assignee files written notice of the assignment on forms that may be required by the department of administration, together with a true copy of the instrument of assignment.

(2) The department may promulgate rules regarding the form of assignment, the procedures for filing assignments, and the submission of claims covering assigned funds.

(3) Unless otherwise expressly permitted by the department, no more than one assignment of a claim is effective at one time, and an assignment may not be made to more than one party, except that an assignment may be made to one party as agent or trustee for two or more parties. An assignment may not be subject to further assignment.

History: En. Secs. 1 thru 3, Ch. 44, L. 1967; R.C.M. 1947, 83-901, 83-902, 83-903; amd. Sec. 20, Ch. 325, L. 1995.

Cross-References

Filing of claims against state and political subdivisions, 2-9-301.

Contract actions against state, Title 18, ch. 1, part 4.

17-8-212. Effect of assignment. Nothing contained herein shall in any way impair the negotiability of state warrants or preclude employees of the state from authorizing deductions from salaries for employees group insurance programs authorized by law, union dues, or purchase of U.S. government savings bonds.

History: En. Sec. 4, Ch. 44, L. 1967; R.C.M. 1947, 83-904.

Cross-References

Restrictions upon assignment of wages or salary, 31-1-304.

17-8-213 through 17-8-220 reserved.

17-8-221. Repealed. Sec. 2, Ch. 88, L. 1985.

History: (1)En. Sec. 236, Rev. C. 1907; re-en. Sec. 242, R.C.M. 1921; re-en. Sec. 242, R.C.M. 1935; Sec. 82-1113, R.C.M. 1947; (2)En. Sec. 232 to 253 were enacted as Sections 1 to 21, pp. 183 to 187, L. 1891; re-en. Secs. 680 to 701, Pol. C. 1895; appearing as Secs. 226 to 247, Rev. C. 1907; re-en. Sec. 232, R.C.M. 1921; Cal. Pol. C. Secs. 654-685; re-en. Sec. 232, R.C.M. 1935; amd. Sec. 7, Ch. 97, L. 1961; Sec. 82-1101, R.C.M. 1947; R.C.M. 1947, 82-1101(part), 82-1113.

17-8-222. Repealed. Sec. 2, Ch. 88, L. 1985.

History: (1)En. Sec. 228, Rev. C. 1907; re-en. Sec. 234, R.C.M. 1921; re-en. Sec. 234, R.C.M. 1935; amd. Sec. 8, Ch. 97, L. 1961; amd. Sec. 53, Ch. 326, L. 1974; Sec. 82-1105, R.C.M. 1947; (2)En. Sec. 230, Rev. C. 1907; re-en. Sec. 236, R.C.M. 1921; re-en. Sec. 236, R.C.M. 1935; Sec. 82-1107, R.C.M. 1947; (3)En. Sec. 231, Rev. C. 1907; re-en. Sec. 237, R.C.M. 1921; re-en. Sec. 237, R.C.M. 1935; Sec. 82-1108, R.C.M. 1947; R.C.M. 1947, 82-1105, 82-1107, 82-1108.

17-8-223. Repealed. Sec. 2, Ch. 88, L. 1985.

History: En. Sec. 237, Rev. C. 1907; re-en. Sec. 243, R.C.M. 1921; re-en. Sec. 243, R.C.M. 1935; R.C.M. 1947, 82-1114.

17-8-224. Repealed. Sec. 2, Ch. 88, L. 1985.

History: (1)En. Sec. 238, Rev. C. 1907; re-en. Sec. 244, R.C.M. 1921; re-en. Sec. 244, R.C.M. 1935; Sec. 82-1115, R.C.M. 1947; (2)En. Sec. 239, Rev. C. 1907; re-en. Sec. 245, R.C.M. 1921; re-en. Sec. 245, R.C.M. 1935; Sec. 82-1116, R.C.M. 1947; R.C.M. 1947, 82-1115, 82-1116.

17-8-225. Repealed. Sec. 2, Ch. 88, L. 1985.

History: (1)En. Sec. 241, Rev. C. 1907; re-en. Sec. 247, R.C.M. 1921; re-en. Sec. 247, R.C.M. 1935; R.C.M. Sec. 82-1118, R.C.M. 1947; (2)En. Sec. 240, Rev. C. 1907; re-en. Sec. 246, R.C.M. 1921; re-en. Sec. 246, R.C.M. 1935; amd. Sec. 10, Ch. 61, L. 1977; Sec. 82-1117, R.C.M. 1947; R.C.M. 1947, 82-1117, 82-1118.

17-8-226. Repealed. Sec. 2, Ch. 88, L. 1985.

History: En. Sec. 242, Rev. C. 1907; re-en. Sec. 248, R.C.M. 1921; re-en. Sec. 248, R.C.M. 1935; R.C.M. 1947, 82-1119.

17-8-227 through 17-8-230 reserved.

17-8-231. Repealed. Sec. 13, Ch. 465, L. 2005.

History: En. Sec. 2, Ch. 151, L. 1981.

17-8-232 through 17-8-240 reserved.

17-8-241. Definitions relating to interest assessment. As used in 17-8-242 through 17-8-244, the following definitions apply:

(1) "Services" means the furnishing of labor, time, or effort, including construction services, purchased or contracted for by the state or any agency thereof.

(2) "Supplies" means all personal property purchased, leased, or contracted for by the state or any agency thereof, including leases of equipment. The term also includes leases of buildings or other real property by the state or any agency thereof.

History: En. Sec. 1, Ch. 484, L. 1983.

Cross-References

State purchasing — general provisions, Title 18, ch. 4.

17-8-242. Interest assessed on amounts due. (1) Except as provided in 17-8-244, a state agency shall pay simple interest at the rate of 0.05% each day on amounts due for supplies and services received if the agency fails to make timely payment.

(2) For purposes of this section, payment is timely if a warrant is mailed or is otherwise made available to the payee when due and for the amount specified in the applicable contract or agreement. If no date is specified in the applicable contract or agreement, payment is timely if paid within 30 days after receipt of a properly completed invoice, addressed to the payer agency, or receipt of the supplies or services by the agency, whichever is later.

History: **En. Sec. 2, Ch. 484, L. 1983.**

Cross-References

Legal interest, 31-1-106.

17-8-243. Source for payment of interest. Any interest owing under 17-8-242 must be paid from funds designated for administrative costs of the agency receiving the supplies and services unless the delay was caused by a different agency, and then the interest must be paid from the administrative costs of that agency.

History: **En. Sec. 4, Ch. 484, L. 1983.**

17-8-244. Exemptions. Section 17-8-242 does not apply to the following:

(1) interagency or intergovernmental transactions;

(2) claims subject to a good faith dispute brought before a government agency or before a court. Interest in a proceeding subject to this subsection is governed by 18-1-404.

(3) delinquencies because of natural disasters, disruptions in postal or delivery service, work stoppage because of labor disputes, power failures, or any other cause resulting from circumstances clearly beyond the control of the payer agency;

(4) wages due and payable to state employees or payments from any state retirement system created pursuant to Title 19; or

(5) claims submitted to the state or to its fiscal intermediary by providers of supplies or services under the Montana medicaid or workers' compensation program if reasonable cause for nonpayment exists.

History: **En. Sec. 3, Ch. 484, L. 1983; amd. Sec. 39, Ch. 530, L. 1995; amd. Sec. 7, Ch. 181, L. 2001.**

Part 3
Warrants

Part Cross-References

Officers prohibited from dealing in warrants, 2-2-204.

Use of facsimile signature on warrants, 2-16-114.

17-8-301. State money — how expended by treasurer. (1) Except as provided in this section, money received by the state treasurer may not be paid out except upon a state warrant issued by the treasurer or on electronic funds transfer authorized by the state treasurer. The state treasurer may not issue a warrant or authorize an electronic funds transfer upon the state treasury except upon a claim approved by the department of administration in accordance with the laws governing the expenditure of state money. However, interest and principal on the public debt may be paid by treasurer's check from the money pledged for payment, and the provisions of this section do not apply to warrants issued upon contingent revolving accounts that are in the custody of the state treasurer.

(2) As used in 2-18-405 and this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape and that orders, instructs, or authorizes the state treasurer to debit or credit an account.

History: **En. Sec. 2, Ch. 112, L. 1921; re-en. Sec. 193, R.C.M. 1921; re-en. Sec. 193, R.C.M. 1935; amd. Sec. 6, Ch. 97, L. 1961; amd. Sec. 2, Ch. 152, L. 1971; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-202; amd. Sec. 3, Ch. 101, L. 1989; (2) En. Sec. 1, Ch. 101, L. 1989; amd. Sec. 21, Ch. 325, L. 1995.**

Cross-References

General fiscal duties of State Treasurer, 17-1-111.

Contingent revolving accounts — when established, 17-2-201.

17-8-302. Order in which warrants are drawn. All warrants for claims which have been audited by the department of administration and filed in the treasurer's office must be drawn in the order in which they are transmitted by the department of administration.

History: **En. Sec. 423, Pol. C. 1895; re-en. Sec. 173, Rev. C. 1907; re-en. Sec. 154, R.C.M. 1921; Cal. Pol. C. Sec. 436; re-en. Sec. 154, R.C.M. 1935; amd. Sec. 5, Ch. 97, L. 1961; R.C.M. 1947, 79-104.**

17-8-303. Warrants — presentation and cancellation. (1) State warrants must be presented for payment within the time limits specified as follows:

(a) Except as provided in subsection (1)(b), all warrants drawn by the state treasurer on the state treasury must be presented for payment within 6 months after the date of issue.

(b) Warrants issued for the department of public health and human services that are funded to any extent with federal money must be presented for payment within 180 days after the date of issue.

(2) If the payee or legal holder of any warrant fails to present it for payment within the time specified in subsection (1), the state treasurer shall record the warrant as stale-dated and the amount must be credited to a separate private purpose trust fund account administered by the treasurer. If the payee or legal owner of a stale-dated warrant presents it for payment or presents a claim for payment within 1 year from the date of issue, the state treasurer may, upon proper showing by affidavit, issue a new warrant in lieu of the stale-dated warrant.

(3) Six months after being stale-dated, the warrant must be classed as unclaimed property subject to the provisions of Title 70, chapter 9, part 8. If the payee or legal owner of a stale-dated warrant presents it for payment or presents a claim for payment, the presentation must be to the department of revenue as provided in 70-9-815.

History: En. Sec. 1, Ch. 80, L. 1907; re-en. Sec. 178, Rev. C. 1907; re-en. Sec. 158, R.C.M. 1921; re-en. Sec. 158, R.C.M. 1935; amd. Sec. 3, Ch. 94, L. 1969; amd. Sec. 1, Ch. 276, L. 1977; R.C.M. 1947, 79-108; amd. Sec. 1, Ch. 84, L. 1987; amd. Sec. 4, Ch. 101, L. 1989; amd. Sec. 1, Ch. 5, L. 1995; amd. Sec. 22, Ch. 325, L. 1995; amd. Sec. 60, Ch. 546, L. 1995; amd. Sec. 30, Ch. 124, L. 1997; amd. Sec. 12, Ch. 34, L. 2001; amd. Sec. 2, Ch. 46, L. 2007; amd. Sec. 1, Ch. 82, L. 2011.

17-8-304. Payment and registry. (1) The state treasurer shall, on the presentation of state warrants regularly issued, pay the warrants out of any funds available for the payments, and in the event that there are no funds available for the payment, the treasurer shall register each warrant in a book or register to be kept for that purpose, entering the date of issue, date of registration, name in whose favor the warrant is drawn, and the number and amount of the warrant and endorse on each warrant registered, on its face, "presented for payment and not paid for want of funds and registered in this office this .... day of ....", inserting the date of registration. The treasurer shall sign the book or register. All warrants must be redeemed and paid in the order of their registration.

(2) This section does not apply to any warrants issued on account of any land grant fund or by virtue of any special act authorizing the issuance of warrants.

History: (1)En. Sec. 1, p. 98, L. 1899; re-en. Sec. 181, Rev. C. 1907; amd. Sec. 1, Ch. 260, L. 1921; amd. Sec. 1, Ch. 6, Ex. L. 1921; re-en. Sec. 180, R.C.M. 1921; amd. Sec. 1, Ch. 159, L. 1923; amd. Sec. 1, Ch. 111, L. 1925; amd. Sec. 1, Ch. 2, L. 1927; re-en. Sec. 180, R.C.M. 1935; amd. Sec. 5, Ch. 61, L. 1977; 79-208, R.C.M. 1947; (2)En. Sec. 2, P. 99, L. 1899; re-en. Sec. 182, Rev. C. 1907; re-en. Sec. 181, R.C.M. 1921; re-en. Sec. 181, R.C.M. 1935; 79-209 R.C.M. 1947; R.C.M. 1947, 79-208, 79-209; amd. Sec. 2, Ch. 40, L. 1995.

17-8-305. Cost accounting for warrant. The state treasurer may establish a cost accounting system to determine the unit cost of issuing and processing warrants and provide for a system of charges for services rendered in issuing and processing warrants for claims submitted by any department or agency of the state. Funds collected for operation of the state warrant system must be deposited to the credit of an internal service fund and expended for the purposes of paying the processing expenses incurred as a result of the state warrant system.

History: En. Sec. 420, Pol. C. 1895; re-en. Sec. 170, Rev. C. 1907; re-en. Sec. 151, R.C.M. 1921; Cal. Pol. C. Sec. 433; re-en. Sec. 151, R.C.M. 1935; amd. Sec. 1, Ch. 94, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 79-101(17); amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 23, Ch. 325, L. 1995; amd. Sec. 1, Ch. 473, L. 1995.

17-8-306. Issuance of replacement warrant. (1) The state treasurer may issue a replacement warrant whenever any warrant drawn by the state is lost or destroyed. This replacement warrant must be in the same form as the original.

(2) Whenever a replacement warrant is issued, the state treasurer shall place a stop-payment order on the original warrant.

(3) Whenever the owner or custodian applies for the issuance of a replacement warrant, the application must include an agreement to indemnify and hold harmless the state and its officers and employees from any loss resulting from the issuance of a replacement warrant.

(4) Any loss incurred in connection with the issuance of a replacement warrant must be charged against the account from which the payment was derived.

History: En. Sec. 1, Ch. 19, L. 1909; re-en. Sec. 159, R.C.M. 1921; re-en. Sec. 159, R.C.M. 1935; amd. Sec. 4, Ch. 94, L. 1969; amd. Sec. 1, Ch. 318, L. 1977; R.C.M. 1947, 79-109; amd. Sec. 1, Ch. 181, L. 1985; amd. Sec. 1, Ch. 50, L. 1987; amd. Sec. 1, Ch. 118, L. 1991; amd. Sec. 1, Ch. 5, Sp. L. November 1993; amd. Sec. 24, Ch. 325, L. 1995; amd. Sec. 11, Ch. 48, L. 1997; amd. Sec. 3, Ch. 243, L. 1997; amd. Sec. 3, Ch. 46, L. 2007.

17-8-307. Repealed. Sec. 13, Ch. 48, L. 1997.

History: En. Sec. 244, Rev. C. 1907; re-en. Sec. 250, R.C.M. 1921; re-en. Sec. 250, R.C.M. 1935; R.C.M. 1947, 82-1121; amd. Sec. 25, Ch. 325, L. 1995.

17-8-308. Payment of interest — land grant warrants. The interest on all land grant warrants is payable on July 1 following the date of issue and annually after that date. Whenever there is sufficient money in any of the land grant funds to pay outstanding warrants or interest on the warrants, the treasurer shall cause to be published a brief notice that the warrants or the interest on particular warrants on which interest would be payable on July 1, describing them by numbers and names of funds, will be payable. Upon the presentation of any warrants on or at any time after July 1, the treasurer shall pay the interest on the warrants, endorsing the date of payment and amount paid of each warrant, and returning the warrant to the holder. The treasurer shall keep a register showing the dates and amounts of each interest payment on each warrant in each fund. If any warrants are called for payment, interest on the warrants ceases on the date fixed in the notice.

History: En. Sec. 3512, Pol. C. 1895; re-en. Sec. 2204, Rev. C. 1907; amd. Sec. 92, Ch. 147, L. 1909; re-en. Sec. 1917, R.C.M. 1921; re-en. Sec. 1917, R.C.M. 1935; R.C.M. 1947, 79-1501; amd. Sec. 221, Ch. 56, L. 2009.

17-8-309 and 17-8-310 reserved.

17-8-311. Payments to local government entities — notice. (1) For the purposes of this section, the following definitions apply:

(a) "Finance officer" means the county treasurer, city treasurer, town clerk, or the equivalent provided for in Title 7, chapter 3.

(b) "Local government entity" means a public entity that, whether or not governed by the legislative body of the local government, is required by law to conduct financial affairs through the finance officer of a city, town, or county. The term does not include a school district or a conservation district.

(2) (a) All payments made by a state agency or the state treasurer to any city, town, county, or local government entity must be payable to the finance officer of the appropriate city, town, or county.

(b) Any payment referred to in subsection (2)(a) may be made by electronic funds transfer at the discretion of the state agency or state treasurer if the entity receiving the payment has the technology to receive payment by electronic funds transfer.

(c) If the payment is to be deposited to the credit of a local government entity, the finance officer shall mail a notice of receipt of the payment to the local government entity. When applicable, the finance officer shall deposit the payment in the appropriate fund or account to the credit of the local government entity.

(3) If the state agency or the state treasurer is unable to determine if the payee is a government entity, the state agency or state treasurer shall process the claim as if it was not payable to a government entity. The state agency or state treasurer shall also mail a notice of issuance of the payment to the finance officer of the county and city to which the payment was issued.

(4) If a finance officer of a county receives a payment under subsection (2) or a notice of issuance under subsection (3), the finance officer shall notify the county clerk and recorder that the payment or notice has been received.

History: En. Sec. 1, Ch. 320, L. 1989; amd. Sec. 3, Ch. 432, L. 2005.

17-8-312. Charges for services or supplies among agencies — valid claim. (1) Subject to 17-8-242, charges for services and supplies incurred between state agencies are considered a debt that must be paid by the receiving agency as if the amount were owed to a vendor outside of state government.

(2) Agencies shall use all funds at their disposal to pay the bills for specific charges for services or supplies provided by another state agency.

History: En. Sec. 11, Ch. 569, L. 2001.

Part 4
False Claims

Part Cross-References

Perjury and other falsification in official matters, Title 45, ch. 7, part 2.
Official misconduct, 45-7-401.

17-8-401. Short title. This part may be cited as the "Montana False Claims Act".

History: En. Sec. 1, Ch. 465, L. 2005.

17-8-402. Definitions. As used in this part, the following definitions apply:

(1) "Claim" includes any request or demand for money, property, or services, whether made pursuant to a contract and regardless of whether a governmental entity holds title to the money or property, that is made to:

(a) an employee, officer, agent, or other representative of a governmental entity; or

(b) a contractor, grantee, or other person, whether under contract or not, if any portion of the money, property, or services requested or demanded is to be spent or used on a governmental entity's behalf or to advance a governmental program or interest and if the governmental entity:

(i) provides or has provided any portion of the money, property, or services requested or demanded; or

(ii) will reimburse a contractor, grantee, or other person for any portion of the money, property, or services requested or demanded.

(2) "Government attorney" means the attorney general except for complaints involving a unit of the university system.

(3) "Governmental entity" means:

(a) the state;

(b) a city, town, county, school district, tax or assessment district, or other political subdivision of the state; or

(c) a unit of the Montana university system.

(4) (a) "Knowingly" means that a person, with respect to information, does any of the following:

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

(iii) acts in reckless disregard of the truth or falsity of the information.

(b) A specific intent to defraud is not required.

(5) "Material" means having a natural tendency to influence or be capable of influencing the payment or receipt of money, property, or services.

(6) "Obligation" means an established duty, whether fixed or not, arising from:

(a) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;

(b) a fee-based or similar relationship;

(c) a statute or regulation; or

(d) the retention of any overpayment.

(7) "Person" includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, trust, or other legal or business entity.

(8) "State" means the state of Montana.

History: En. Sec. 2, Ch. 465, L. 2005; amd. Sec. 1, Ch. 64, L. 2009; amd. Sec. 1, Ch. 388, L. 2013.

17-8-403. False claims — procedures — penalties. (1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than $5,500 and not more than $11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains, along with expenses, costs, and attorney fees, if the person:

(a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

(b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(c) conspires to commit a violation of this subsection (1);

(d) has possession, custody, or control of public property or money used or to be used by the governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

(e) is authorized to make or deliver a document certifying receipt of property used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, makes or delivers a receipt without completely knowing that the information on the receipt is true;

(f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental entity from any person who may not lawfully sell or pledge the property;

(g) knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than $5,500 and not more than $11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;

(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation; or

(iii) the news media.

(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or 2-6-1003 is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or

(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.

(7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.

(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

(9) If a governmental entity does not intervene, the person who initiated the action has the same right to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity.

History: En. Sec. 3, Ch. 465, L. 2005; amd. Sec. 2, Ch. 64, L. 2009; amd. Sec. 2, Ch. 388, L. 2013; amd. Sec. 43, Ch. 348, L. 2015.

Cross-References

False claim to public agency, 45-7-210.

17-8-404. Limitation of actions. (1) A complaint or civil action filed under 17-8-405 or 17-8-406 must be brought by the later of:

(a) 6 years after the date on which the violation was committed; or

(b) 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the governmental entity charged with responsibility to act in the circumstances.

(2) In no event may an action brought pursuant to subsection (1)(b) be brought more than 10 years after the date on which the violation was committed.

(3) If the governmental entity elects to intervene in any action brought under 17-8-406, the complaint in intervention must relate back to the filing date of the original complaint to the extent that the governmental entity's claim arises out of the conduct, transactions, or occurrences set forth or attempted to be set forth in the original complaint.

History: En. Sec. 4, Ch. 465, L. 2005; amd. Sec. 3, Ch. 64, L. 2009; amd. Sec. 3, Ch. 388, L. 2013.

17-8-405. Investigation and civil action by government attorney. The government attorney shall investigate an alleged violation of 17-8-403 and may file a civil action against any person who has violated or is violating 17-8-403.

History: En. Sec. 5, Ch. 465, L. 2005; amd. Sec. 4, Ch. 64, L. 2009.

17-8-406. Complaint by person — civil action. (1) A person may bring a civil action for a violation of 17-8-403 on behalf of the person and the governmental entity. The action must be brought in the name of the governmental entity. The action may be dismissed only if the court and the government attorney give written consent to the dismissal and provide their reasons for consenting to the dismissal.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information that the person possesses must be served on the government attorney pursuant to Rule 4(c)(2)(C), (c)(2)(D), and (d) through (s), Montana Rules of Civil Procedure. The complaint must be filed under seal and must remain under seal for at least 60 days. The complaint may not be served upon the defendant until the court orders that it be served.

(3) Within 60 days after receiving the complaint and the material evidence and information, the government attorney may elect to intervene and proceed with the action or to notify the court that the government attorney declines to take over the action. If the government attorney declines to intervene or take over the action, the person bringing the action has the right to conduct the action. The government attorney may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal.

(4) The defendant may not be required to respond to any complaint until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4(c)(2)(C), (c)(2)(D), and (d) through (s), Montana Rules of Civil Procedure.

(5) If the government attorney proceeds with the action, the government attorney has the primary responsibility for prosecuting the action and is not bound by an act of the person bringing the action. The person bringing the action has the right to continue as a party to the action subject to the limitations set forth in this part.

(6) If the government attorney elects not to proceed with the action and the person who initiated the action conducts it:

(a) the person who initiated the action shall, upon the government attorney's request, serve the governmental entity with copies of all pleadings filed in the action and shall supply the government attorney with copies of all deposition transcripts at the government attorney's expense;

(b) the court, without limiting the status and rights of the person initiating the action, may permit the government attorney to intervene at a later date upon a showing of good cause.

(7) When a person files a civil action pursuant to this section, no person other than the government attorney may intervene or bring a related action based on the facts underlying the pending action.

(8) Upon a showing by the government attorney that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the government attorney's prosecution of the case or would be repetitious, irrelevant, or for purposes of harassment, the court may in its discretion impose limitations on the person's participation, including but not limited to:

(a) limiting the number of witnesses the person may call;

(b) limiting the length of testimony of witnesses called by the person;

(c) limiting the person's cross-examination of witnesses; or

(d) otherwise limiting the participation of the person in the litigation.

History: En. Sec. 6, Ch. 465, L. 2005; amd. Sec. 5, Ch. 64, L. 2009.

17-8-407. Dismissal of civil action. On the motion of the government attorney, the court may dismiss a civil action notwithstanding the objection of the person who initiated the action if the government attorney has notified the person of the filing of the motion to dismiss and the court has given the person an opportunity to oppose the motion and present evidence at a hearing.

History: En. Sec. 7, Ch. 465, L. 2005; amd. Sec. 6, Ch. 64, L. 2009.

17-8-408. Repealed. Sec. 11, Ch. 64, L. 2009.

History: En. Sec. 8, Ch. 465, L. 2005.

17-8-409. Burden of proof — effect of criminal conviction. (1) The plaintiff in an action under 17-8-405 or 17-8-406 shall prove each essential element of the cause of action, including damages, by a preponderance of the evidence.

(2) A person convicted of or who pleaded guilty or nolo contendere to a criminal offense may not deny the essential elements of the offense in an action under 17-8-405 or 17-8-406 that involves the same event or events as the criminal proceeding.

History: En. Sec. 9, Ch. 465, L. 2005.

17-8-410. Distribution of damages and civil penalty. (1) Except as provided in subsection (2), if the government attorney proceeds with an action brought by a person pursuant to 17-8-406, the person must receive at least 15% but not more than 25% of the proceeds recovered and collected in the action or in settlement of the claim, depending on the extent to which the person substantially contributed to the prosecution of the action.

(2) (a) The court may award an amount it considers appropriate but in no case more than 10% of the proceeds in an action that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions disclosed through:

(i) a criminal, civil, or administrative hearing;

(ii) a legislative, administrative, auditor, or inspector general report, hearing, audit, or investigation; or

(iii) the news media.

(b) In determining the award, the court shall take into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(3) Any payment to a person bringing an action pursuant to this part may be made only from the proceeds recovered and collected in the action or in settlement of the claim. The person must also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The expenses, fees, and costs must be awarded against the defendant.

(4) If the government attorney does not proceed with an action pursuant to 17-8-406, the person bringing the action or settling the claim must receive an amount that the court decides is reasonable for collecting the civil penalty and damages on behalf of the government attorney or governmental entity. The amount may not be less than 25% or more than 30% of the proceeds recovered and collected in the action or settlement of the claim and must be paid out of the

proceeds. The person must also receive an amount for reasonable expenses that the court finds were necessarily incurred, plus reasonable attorney fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(5) Whether or not the government attorney proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of 17-8-403, the court may, to the extent the court considers appropriate, reduce or eliminate the share of the proceeds of the action that the person would otherwise receive pursuant to subsections (1) through (4) of this section, taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of this part, the person must be dismissed from the civil action and may not receive any share of the proceeds of the action. The dismissal does not prejudice the right of the government attorney to continue the action.

(6) The governmental entity is entitled to any damages and civil penalty not awarded to the person. Any damages and civil penalties that remain after calculation and distribution to the person under subsections (1) through (5) must be distributed first to fully reimburse any losses suffered by the governmental entity as a result of the defendant's actions, and the remainder of the damages and any civil penalty must be deposited in the general fund of the governmental entity. Reimbursement must be made to the trust fund or program of the governmental entity that suffered the loss. If more than one trust fund or program suffered a loss and there are not enough recovered funds to fully reimburse each, then the distribution must be proportionate.

(7) Unless otherwise provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of the state.

History: En. Sec. 10, Ch. 465, L. 2005; amd. Sec. 7, Ch. 64, L. 2009; amd. Sec. 4, Ch. 388, L. 2013; amd. Sec. 1, Ch. 340, L. 2021.

17-8-411. Costs and attorney fees. The governmental entity that filed a civil action or intervened is entitled to reasonable costs and attorney fees if the action is settled favorably for the governmental entity or the governmental entity prevails. In an action in which outside counsel is engaged by a government attorney, the costs and attorney fees awarded to that counsel must equal the outside counsel's charges reasonably incurred for costs and attorney fees in prosecuting the action. In any other actions in which costs and attorney fees are awarded to the governmental entity, they must be calculated by reference to the hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action. A person who is a plaintiff or coplaintiff is entitled to reasonable expenses that the court finds to have been necessarily incurred, plus reasonable costs and attorney fees, if the action is settled favorably for the governmental entity or the governmental entity prevails in the action. A defendant in a civil action brought pursuant to this part who prevails in an action that is not settled and that the court finds was clearly frivolous or brought solely for harassment purposes is entitled to the defendant's reasonable costs and attorney fees. If the governmental entity does not intervene, it is not responsible for any of the defendant's fees and costs.

History: En. Sec. 11, Ch. 465, L. 2005; amd. Sec. 8, Ch. 64, L. 2009; amd. Sec. 5, Ch. 388, L. 2013.

17-8-412. Retaliatory actions prohibited — remedies. (1) A governmental entity, private entity, or person may not adopt or enforce a rule, regulation, or policy preventing an employee, agent, or contractor from disclosing information to a government or law enforcement agency with regard to or from acting in furtherance of an investigation of a violation of 17-8-403 or an action brought pursuant to 17-8-405 or 17-8-406.

(2) A governmental entity, private entity, or person may not discharge, demote, suspend, threaten, harass, or deny promotion to or in any other manner discriminate against an employee, agent, or contractor in the terms and conditions of employment, agency, or contract because of the disclosure by the employee, agent, or contractor of information to a government or law enforcement agency pertaining to a violation of 17-8-403.

(3) An employee, contractor, or agent is entitled to all relief necessary to make the employee, contractor, or agent whole if the employee, contractor, or agent is discharged,

demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under this part or other efforts to stop one or more violations of this part.

(4) Relief under subsection (3) includes reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. A civil action may be brought in the appropriate district court of the state for the relief provided in this subsection.

(5) A civil action under this section may not be brought more than 3 years after the date on which the retaliation occurred.

History: En. Sec. 12, Ch. 465, L. 2005; amd. Sec. 9, Ch. 64, L. 2009; amd. Sec. 6, Ch. 388, L. 2013.

17-8-413. Settlement by government attorney. A government attorney may settle the case with a defendant notwithstanding the objections of the persons who initiated the action if the court determines, after a hearing, that the settlement is fair, adequate, and reasonable under the circumstances. Upon a showing of good cause, the hearing may be held in camera.

History: En. Sec. 10, Ch. 64, L. 2009.

17-8-414 and 17-8-415 reserved.

17-8-416. Reporting. The attorney general shall submit to the law and justice interim committee a report in accordance with 5-11-210 containing the following information:

(1) the number of cases filed under the Montana False Claims Act, Title 17, chapter 8, part 4, that were pending in the state during the previous calendar year;

(2) the number of cases filed under the Montana False Claims Act that were settled during the previous calendar year;

(3) the number of cases filed under the Montana False Claims Act in which judgment was entered during the previous calendar year;

(4) the total proceeds paid to the state and the total proceeds paid to the qui tam plaintiffs in cases filed under the Montana False Claims Act during the previous calendar year; and

(5) the number of qui tam cases pending in other jurisdictions involving the state in the previous calendar year.

History: En. Sec. 7, Ch. 388, L. 2013; amd. Sec. 43, Ch. 261, L. 2021.

TITLE 18
PUBLIC CONTRACTS

Ch.
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3. State Building Leases.
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CHAPTER 1
PUBLIC CONTRACTS GENERALLY

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18-1-102. State contracts to lowest bidder — reciprocity.
18-1-103. Resident defined.
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Chapter Cross-References

Construction of contracts, Title 1, ch. 4, part 1.
Officers and legislators not to have interest in contracts, 2-2-201.
Transfer of contract rights under executive reorganization, 2-15-135.
Lease of buildings by state, 2-17-101.
Failure to make timely payment — interest assessment on amounts due, 17-8-242.

Attachment in contract actions, 27-18-101.
Injunctions in contract actions, 27-19-103.
Revision and rescission of contracts, Title 28, ch. 2, parts 16 and 17.
Interpretation of contracts, Title 28, ch. 3.
Plain language in contracts, Title 30, ch. 14, part 11.
Gifts to public servants having discretionary function in contract letting, 45-7-104.
False claims to public agencies, 45-7-210.
Contract authority — Transportation Commission, 60-2-111.
Administration of state lands, Title 77.
Contract authority — Department of Agriculture, 80-2-104, 80-7-504.

Part 1
Preferences and General Matters

Part Cross-References
Public participation in awarding contracts, 2-3-103, 2-3-104, 2-3-111.
Veterans' employment preference, Title 39, ch. 29.
Persons with disabilities public employment preference, Title 39, ch. 30.
Freedom from discrimination in public contracts, 49-3-207.

18-1-101. Definitions. (1) Unless the context requires otherwise, in this title, "department" means the department of administration provided for in Title 2, chapter 15, part 10.

(2) Unless the context requires otherwise, in this part, the following definitions apply:

(a) "Goods" means supplies, equipment, materials, commodities, and specially manufactured products.

(b) "Nonresident bidder" means a bidder whose residence is not in this state as determined under 18-1-103.

(c) (i) "Public agency" means a department, commission, council, board, bureau, committee, institution, agency, government corporation, or other entity, instrumentality, or official of the legislative, executive, or judicial branch of this state and its political subdivisions, including the board of regents and the Montana university system.

(ii) Public agency does not include a political subdivision for purposes of 18-1-102(1)(b).

(d) "Resident bidder" means a bidder whose residence is in this state as determined under 18-1-103.

(e) "Written" means that whenever written or in-writing determinations or documents are required, the public agency responsible for the procurement may specify an appropriate visual medium, such as by computer transmission or by facsimile machine transmission, in the specifications, contract, or rules of the public agency.

History: En. 82-1901.1 by Sec. 57, Ch. 326, L. 1974; R.C.M. 1947, 82-1901.1; amd. Sec. 1, Ch. 512, L. 1987; amd. Sec. 1, Ch. 443, L. 1997; amd. Sec. 8, Ch. 181, L. 2001.

18-1-102. State contracts to lowest bidder — reciprocity. (1) In order to provide for an orderly administration of the business of the state of Montana in awarding public contracts for the purchase of goods and for construction, repair, and public works of all kinds, a public agency shall, except as provided in Title 18, chapter 2, part 5, award:

(a) a public contract for construction, repair, or public works to the lowest responsible bidder without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of a nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to resident bidders of this state must be equal to the preference given in the other state or country.

(b) a public contract for the purchase of goods to the lowest responsible bidder without regard to residency. However, a resident must be allowed a preference on a contract against the bid of a nonresident if the state or country of the nonresident enforces a preference for residents. The preference must be equal to the preference given in the other state or country.

(2) The preferences in this section apply:

(a) whether the law requires advertisement for bids or does not require advertisement for bids; and

(b) to contracts involving funds obtained from the federal government unless expressly prohibited by the laws of the United States or regulations adopted pursuant to federal laws.

History: En. Sec. 1, Ch. 183, L. 1961; amd. Sec. 1, Ch. 197, L. 1969; R.C.M. 1947, 82-1924; amd. Sec. 1, Ch. 468, L. 1985; amd. Sec. 2, Ch. 512, L. 1987; amd. Sec. 1, Ch. 32, L. 1991; amd. Sec. 1, Ch. 306, L. 1999; amd. Sec. 9, Ch. 181, L. 2001; amd. Sec. 6, Ch. 574, L. 2005.

Cross-References
Competitive bids for county road contracts, 7-14-2404.
Contracts for bridges, 7-14-2406.
Economic development bonds — preference to Montanans, 17-5-1526, 17-5-1527.
Montana in-state investment — preference to Montana labor, 17-6-325.
Preference of Montana labor in public works — wages — federal exception, 18-2-403.
Resident printer preference, 18-7-107.
School districts — architectural contracts with Montana firms encouraged, 20-6-635.
Competitive bidding — highways, 60-2-112.
Industrial development projects — preference to Montanans, 90-5-114.

18-1-103. Resident defined. (1) For the purpose of 18-1-102 and this section, the word "resident" includes actual residence of an individual within this state for a period of more than 1 year immediately prior to bidding.

(2) In a partnership enterprise, limited liability company, or association, the majority of all partners or members must have been actual residents of the state of Montana for more than 1 year immediately prior to bidding.

(3) Domestic corporations organized under the laws of the state of Montana are prima facie eligible to bid as residents, but this qualification may be set aside and a successful bid disallowed when it is shown to the satisfaction of the board, commission, officer, or individual charged with the responsibility for the execution of the contract that the corporation is a wholly owned subsidiary of a foreign corporation or that the corporation was formed for the purpose of circumventing the provisions relating to residence.

History: En. Sec. 2, Ch. 183, L. 1961; amd. Sec. 2, Ch. 197, L. 1969; amd. Sec. 1, Ch. 74, L. 1974; R.C.M. 1947, 82-1925; amd. Sec. 1, Ch. 284, L. 1987; amd. Sec. 58, Ch. 370, L. 1987; amd. Sec. 3, Ch. 512, L. 1987; amd. Sec. 100, Ch. 42, L. 1997; amd. Sec. 10, Ch. 181, L. 2001.

Cross-References
Residence — rules for determining, 1-1-215.
Bona fide resident of Montana defined, 18-2-401.

18-1-104. Repealed. Sec. 2, Ch. 92, L. 1979.

History: En. Sec. 1, Ch. 217, L. 1967; amd. Sec. 61, Ch. 391, L. 1973; R.C.M. 1947, 82-1925.1(part).

18-1-105. Repealed. Sec. 2, Ch. 92, L. 1979.

History: En. Sec. 1, Ch. 217, L. 1967; amd. Sec. 61, Ch. 391, L. 1973; R.C.M. 1947, 82-1925.1(part).

18-1-106. Department of labor and industry to determine residency of selected contractors — applications for redetermination — determination as prima facie evidence. (1) The department of labor and industry shall determine whether or not certain contractors are residents of the state of Montana within the meaning of 18-1-102 and 18-1-103. Any public agency charged by law with the responsibility for the execution of any contract subject to the provisions of 18-1-102 may request that a determination of resident or nonresident status be made by the department of labor and industry. All requests must specify the name and address of the licensed public contractor for whom a determination of resident or nonresident status is required.

(2) If a determination is made that a public contractor is not a resident but the public contractor later qualifies as a resident, the contractor may apply to the department of labor and industry for a redetermination of residency. If, upon redetermination, the public contractor is found to qualify as a resident, the contractor must be furnished a letter by the department of labor and industry attesting to resident status.

(3) The determination of the department of labor and industry that a public contractor is or is not a resident within the meaning of 18-1-102 and 18-1-103 is prima facie evidence of that fact.

History: En. Sec. 1, Ch. 92, L. 1979; amd. Sec. 1, Ch. 2, L. 1985; amd. Sec. 9, Ch. 558, L. 1995; amd. Sec. 46, Ch. 483, L. 2001.

18-1-107 through 18-1-109 reserved.

18-1-110. Hiring preference for residents of Indian reservations for state construction projects within reservation — rules. (1) For any contract awarded by a state agency for a state construction project within the exterior boundaries of an Indian reservation, except a project partially funded with federal-aid money from the United States department of transportation or when residency preference laws are specifically prohibited by federal law,

there must be inserted in the bid specification and the contract a provision, in language approved by the commissioner of labor and industry, implementing the requirements of this subsection. The bid specification and the contract must provide that a preference in hiring for positions of employment be given to Indian residents of the reservation who have substantially equal qualifications for any position. For the purposes of this section, the definitions in 2-18-111 apply.

(2) The commissioner of labor and industry shall enforce this section, investigate complaints of its violation, and may adopt rules to implement this section.

History: En. Sec. 2, Ch. 506, L. 1991.

18-1-111. Impartiality to be shown in letting contracts. The department may not show any partiality or favoritism not provided for by law in making awards or contracts.

History: En. Sec. 10, Ch. 66, L. 1923; re-en. Sec. 293.10, R.C.M. 1935; amd. Sec. 75, Ch. 326, L. 1974; R.C.M. 1947, 82-1920; amd. Sec. 2, Ch. 284, L. 1987; amd. Sec. 11, Ch. 181, L. 2001.

Cross-References

Preference of Montana labor in public works — wages — federal exception, 18-2-403.
Nondiscrimination provision in all public contracts, 49-3-207.

18-1-112. Repealed. Sec. 26, Ch. 181, L. 2001.

History: En. Sec. 3, Ch. 183, L. 1961; amd. Sec. 3, Ch. 197, L. 1969; amd. Sec. 6, Ch. 97, L. 1977; R.C.M. 1947, 82-1926; amd. Sec. 4, Ch. 512, L. 1987.

18-1-113. Bidder to submit affidavit — penalty. (1) A bidder on a public contract for goods who is claiming a preference under this part shall either have on file with or submit to the public agency with its bid an affidavit specifying in detail, as determined by rule by the department, the basis on which the bidder claims the preference.

(2) If the public agency determines that the bidder has submitted a false affidavit under subsection (1), the bidder is disqualified as a bidder for future public contracts for goods with any public agency for a period of 5 years from the date of the determination.

History: En. Sec. 6, Ch. 512, L. 1987.

18-1-114. Rules. The department shall adopt rules necessary to administer the preferences provided in this part. The department's rules apply to all public agencies.

History: En. Sec. 7, Ch. 512, L. 1987.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

18-1-115 through 18-1-117 reserved.

18-1-118. Access to records of contracting entities. Money may not be spent by a state agency under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5, chapter 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required by this section.

History: En. Sec. 12, Ch. 787, L. 1991; amd. Sec. 60, Ch. 545, L. 1995; amd. Sec. 2, Ch. 377, L. 1997.

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.
Strict accountability, Art. VIII, sec. 12, Mont. Const.
Fiscal analysis information from state agencies, 5-12-303.
Legislative Auditor — information from state agencies, 5-13-309.

Part 2
Bid Security

Part Cross-References

Rural special improvement districts — bids, 7-12-2131.
Special improvement districts — bids, 7-12-4141.
Bid security, 18-2-302.
Surety insurance — performance bonds included, 33-1-211.
Surety insurers — may execute performance bonds, 33-26-104.
Highways — bidder's security — contractor's bond, 60-2-113.

18-1-201. Requirement for bidder's security. (1) A "public authority" or "obligee" includes:

(a) the state of Montana or any department (including the department of administration, unless otherwise authorized by express provision of law), institution, board, commission, agency, authority or subordinate jurisdiction thereof;

(b) any county or other political subdivision of this state;

(c) any municipal corporation or authorized subdivision thereof; or

(d) school districts, irrigation districts, or other public authority organized under the laws of the state of Montana.

(2) Except as provided in 18-4-312, in all cases where a public authority or obligee is authorized by law to solicit bids, tenders, or proposals for public works, improvements, or undertakings of any kind or for the purchase of commodities, goods, or property or for the procurement of technical or special services on a bid basis (exclusive of services on the basis of salaries or wages) or for the sale and purchase of bonds, debentures, notes, or any other forms of indebtedness of any such public authority, the respective executive, administrative, or other officers of and acting for such public authority shall require, as a condition precedent to considering any such bids, as evidence of good faith on the part of the bidder, and as indemnity for the benefit of such public authority against the failure or refusal of any bidder to enter into any written contract that may be awarded upon and following acceptance of bid or as a condition precedent to consummating any sale and purchase of any forms of indebtedness, that any bid shall contain a written covenant of indemnity conditioned as herein prescribed and that the bid shall be accompanied by bid security of the nature herein specified for the performance of such covenant.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part); amd. Sec. 1, Ch. 424, L. 1985.

Cross-References

State contracts to lowest resident bidder, 18-1-102.

Indemnity, Title 28, ch. 11, part 3.

18-1-202. Advertisement for bid to specify required security. (1) The advertisement, request, or solicitation for bids or offers must distinctly specify that all bidders, offerors, tenderers, or contractors shall:

(a) whenever bids are solicited other than for purchase of any forms of indebtedness, expressly covenant in any bid that if the bidder is awarded the contract, the bidder will, within the time required as stated in the advertisement or solicitation, enter into a formal contract and give a good and sufficient bond to secure the performance of the terms and conditions of the contract. If a bond is not provided, the bidder shall pay the public authority the difference in money between the amount of the bid of the bidder and the amount for which the public authority legally contracts with another party to perform the work or supply the property, commodities, or services, as the case may be, if the latter amount is in excess of the former.

(b) whenever the bids are solicited for the purchase and sale of any forms of indebtedness of the public authority, expressly covenant that the security accompanying the bid in the amount specified by the public authority must be kept and retained by the public authority as liquidated damages for failure to consummate the purchase of the forms of indebtedness that may be awarded on acceptance of bid and in compliance with the terms of the bid.

(2) The public authority shall distinctly specify in the solicitation or advertisement for bids the penal or other sum fixed by statute to be paid by a bidder failing or refusing as aforesaid whenever the amount of the bid security is fixed by statute. Otherwise, the public authority shall specify the amount, which may not be less than 2% of the principal amount of the indebtedness for a bid for the purchase of indebtedness and 10% of the bid price for any other bid, that it considers reasonably necessary to protect and indemnify the public authority against the failure or refusal of the bidder to enter into the contract or consummate the purchase of indebtedness, as the case may be.

(3) The advertisement, request, or other solicitation for bids or offers must distinctly specify that a bid bond or other form of security specified in 18-1-203 constitutes compliance with the requirement for bid security.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part); amd. Sec. 1, Ch. 85, L. 1979; amd. Sec. 1, Ch. 51, L. 1995.

Cross-References
Damages for breach of contract, 27-1-311.
Indemnity, Title 28, ch. 11, part 3.

18-1-203. Form of security. (1) (a) In all cases under 18-1-202(1), the bidder, offeror, or tenderer shall accompany any bid with either:

(i) lawful money of the United States;

(ii) a cashier's check, certified check, bank money order, or bank draft, in any case drawn and issued by a federally chartered or state-chartered bank insured by the federal deposit insurance corporation; or

(iii) a bid bond, guaranty bond, or surety bond executed by a surety corporation authorized to do business in the state of Montana. If a financial guaranty bond or surety bond is provided to secure the purchase of indebtedness, the long-term indebtedness of the company executing the financial guaranty bond or surety bond must carry an investment grade rating of one or more nationally recognized independent rating agencies.

(b) The public authority soliciting or advertising for bids may not require that a bid bond, guaranty bond, or surety bond provided for in subsection (1)(a)(iii) be furnished by a particular surety company or by a particular insurance producer for a surety company.

(2) The money or, in lieu of money, the bank instruments or bid bonds, financial guaranty bonds, or surety bonds must be payable directly to the public authority soliciting or advertising for bids.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part); amd. Sec. 11, Ch. 184, L. 1983; amd. Sec. 2, Ch. 51, L. 1995; amd. Sec. 1, Ch. 203, L. 2003.

Cross-References
Suretyship, Title 28, ch. 11, part 4.
Banks — acceptance and issuance of drafts and letters of credit, 32-1-437.
Certified checks, 32-1-441.

18-1-204. Forfeiture — bidder's liability — waiver. (1) Except as provided in subsection (3), if in any instance one or more bids be accepted or a sale of any form of indebtedness is ordered or a contract is awarded, any bidder whose bid is accepted and who shall thereafter refuse to enter into and execute the proposed contract or carry out and consummate the purchase of any form of indebtedness, as stated in the covenant in the bid and herein, shall absolutely forfeit such moneys or bank instruments to the public authority concerned and become immediately liable on the bid bond but not in excess of the penal sum therein stated.

(2) In no event shall the bidder's liability, the liability of the maker of the security instrument, or the liability on the bid bond exceed the amount specified by the public authority in the solicitation or advertisement for bids, whether the amount shall be posted in money, be stated as the amount payable in the security instrument, or as the maximum amount payable in the bid bond.

(3) With respect to bids accepted under Title 18, chapter 2, the department may waive the requirement to forfeit bid security.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part); amd. Sec. 1, Ch. 83, L. 1987.

Cross-References
Indemnity, Title 28, ch. 11, part 3.

18-1-205. Return of bid security. The moneys or bank instruments or bid bonds, as the case may be, shall be returned to those bidders whose bids are not accepted.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part).

18-1-206. Effect of compliance. Nothing contained in this part shall exclude or be construed to excuse compliance with any other requirements for bonds or other or further security after acceptance of bids or following award of contract or excuse compliance with any requirements for performance bonds at any time, as such requirements may be prescribed or authorized by the laws of the state of Montana.

History: En. Sec. 1, Ch. 174, L. 1951; amd. Sec. 101, Ch. 326, L. 1974; R.C.M. 1947, 6-501(part).

Part 3
Prepayment of Public Contractors

Part Cross-References
Public contractor's tax, Title 15, ch. 50.

18-1-301. Contractor withdrawals — deposit of obligations. (1) The contractor under any contract made or awarded by the state of Montana or any department, agency, or political subdivision of the state of Montana, by any county, municipality, or political subdivision of a county or municipality, or by a school district, including any contract for the construction, improvement, maintenance, or repair of any road or highway or the appurtenances to a road or highway, may, from time to time, withdraw the whole or any portion of the sums otherwise due to the contractor under the contract that are retained by the state of Montana or any department, agency, or political subdivision of the state of Montana, by any county, municipality, or political subdivision of a county or municipality, or by a school district pursuant to the terms of the contract, provided the contractor shall deposit with the contracting agency:

(a) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, or United States treasury bills;

(b) bonds or notes of the state of Montana;

(c) bonds of any political subdivision of the state of Montana of a market value not exceeding par at the time of deposit; or

(d) certificates of deposit drawn and issued by a national banking association located in the state of Montana or by any banking corporation incorporated under the laws of the state of Montana.

(2) Deposited obligations must be at least equal in value to the amount so withdrawn from payments retained under the contract.

(3) Except as provided in subsection (4), all interest accrued in the accounts of deposits required under this section must be paid to the contractor.

(4) The contractor shall extend to the contractor's subcontractors the opportunity to participate in making the deposits required in subsection (1). Interest accrued in deposit accounts in which subcontractors participate must be distributed on a pro rata basis by the contractor to the participating subcontractors. A subcontractor participating in making the deposits required in subsection (1) may not have additional retainage withheld by the contractor.

History: En. Sec. 1, Ch. 194, L. 1969; amd. Sec. 1, Ch. 101, L. 1971; R.C.M. 1947, 82-4101; amd. Sec. 1, Ch. 113, L. 1985; amd. Sec. 1, Ch. 222, L. 1999.

Cross-References
Guaranty, suretyship, and indemnity, Title 28, ch. 11.

18-1-302. Servicing of deposited obligations. After notice to the owner and surety, the contracting agency shall have the power to enter into a contract or agreement with any national bank, state bank, trust company, or safe deposit company located in the state of Montana, designated by the contractor, to provide for the custodial care and servicing of any obligations deposited with it pursuant to this part. Such services shall include the safekeeping of said obligations and the rendering of all services required to effectuate the purposes of this part.

History: En. Sec. 2, Ch. 194, L. 1969; R.C.M. 1947, 82-4102; amd. Sec. 2, Ch. 113, L. 1985.

18-1-303. Interest or income on deposits to contractor. (1) The contracting agency or any national bank, state bank, trust company, or safe deposit company located in the state of Montana, designated by the contractor to serve as custodian for the obligations pursuant to 18-1-302, shall collect all interest or income when due on the obligations so deposited and shall pay the same, when and as collected, to the contractor who deposited the obligation.

(2) If deposited in the form of coupon bonds, the contracting agency or the designated custodian, pursuant to 18-1-302, shall deliver each such coupon as it matures to the contractor.

History: En. Sec. 3, Ch. 194, L. 1969; R.C.M. 1947, 82-4103; amd. Sec. 3, Ch. 113, L. 1985.

Cross-References
Interest on deposits — conformity with federal law, 17-6-104.

18-1-304. Priority of deductions from retained payments and proceeds of deposited obligation. Any amount deducted by the state of Montana or by any department, agency, or political subdivision thereof pursuant to the terms of a contract from the retained

payments otherwise due to the contractor thereunder shall be deducted first from that portion of the retained payments for which no obligation has been substituted, then from the proceeds of any deposited obligation. In the latter case, the contractor shall be entitled to receive the interest, coupons, or income only from those obligations which remain on deposit after such amount has been deducted.

History: En. Sec. 4, Ch. 194, L. 1969; R.C.M. 1947, 82-4104.

Part 4
Contract Actions Against the State

Part Cross-References

Claims against state, Title 17, ch. 8, part 2.
Time limitation on contract actions, 27-2-202.

18-1-401. Jurisdiction. The district courts of the state of Montana shall have exclusive original jurisdiction to hear, determine, and render judgment on any claim or dispute arising out of any express contract entered into with the state of Montana or any agency, board, or officer thereof.

History: En. Sec. 1, Ch. 138, L. 1955; R.C.M. 1947, 83-601.

Cross-References

District Court jurisdiction, Title 3, ch. 5, part 3.

18-1-402. Administrative procedures — exhaustion — time limitations. Whenever any contracting agency of the state of Montana provides a procedure for the settlement of any question or dispute arising between the contractor and the agency, the contractor, before proceeding to bring an action in court under the provisions of this part, shall resort to the procedure within the time specified in the contract or, if a time is not specified, within 90 days after the question or dispute has arisen, provided:

(1) in a case in which a settlement procedure is provided by the contracting agency, all actions authorized under this section must be commenced within 1 year after a final decision has been rendered pursuant to the settlement procedure; and

(2) in a case in which a settlement procedure is not provided by the contracting agency, the action must be commenced by the contractor within 1 year after the cause of action has arisen.

History: En. Sec. 2, Ch. 138, L. 1955; R.C.M. 1947, 83-602; amd. Sec. 222, Ch. 56, L. 2009.

Cross-References

Judicial review of contested cases, Title 2, ch. 4, part 7.
Statutes of limitations, Title 27, ch. 2.
Statute of limitations in contracts for sale, 30-2-725.

18-1-403. Stipulations restricting enforcement void. Every stipulation or condition in a contract by which any party is restricted from enforcing the party's rights under the provisions of this part is void.

History: En. Sec. 3, Ch. 138, L. 1955; R.C.M. 1947, 83-603; amd. Sec. 223, Ch. 56, L. 2009.

Cross-References

Restraints upon legal proceedings void, 28-2-708.

18-1-404. Liability of state — interest — costs. (1) (a) The state of Montana is liable in respect to any contract entered into in the same manner and to the same extent as a private individual under like circumstances, except the state of Montana is not liable for punitive damages.

(b) The state of Montana is liable for interest from the date on which the payment on the contract became due. This liability is retroactive, within the meaning of 1-2-109, and applies to any contract in effect or an action pending on a contract on or after May 1, 1997. If the contract is subject to a good faith dispute brought before a government agency or before a court, the interest rate is 10% simple interest each year, whether due before or after a decision by the government agency or court. If the contract does not specify when interest is payable before a decision, interest must be paid at the time provided in 17-8-242(2). If the contract is not subject to a good faith dispute brought before a government agency or before a court, the interest rate is governed by 17-8-242.

(2) Costs may be allowed as provided in 25-10-711. In all other cases, costs must be allowed in all courts to the successful claimant to the same extent as if the state of Montana were a private litigant. The costs must include attorney fees. The liability for attorney fees is retroactive, within the meaning of 1-2-109, and applies to any contract in effect or an action pending on a contract on or after May 1, 1997.

(3) This section does not apply to a contract governed by Title 19.

History: En. Sec. 4, Ch. 138, L. 1955; R.C.M. 1947, 83-604; amd. Sec. 3, Ch. 402, L. 1979; amd. Sec. 1, Ch. 508, L. 1997; amd. Sec. 1, Ch. 413, L. 1999; amd. Sec. 12, Ch. 181, L. 2001.

Cross-References

State subject to suit, Art. II, sec. 18, Mont. Const.
Claims against state, Title 17, ch. 8, part 2.
Contractual right to attorney fees treated as reciprocal, 28-3-704.

18-1-405 through 18-1-410 reserved.

18-1-411. Practice and procedure. In actions under the provisions of this part, the forms of process, writs, pleadings, and motions and the practice and procedure, together with the right of appeal to the supreme court of the state of Montana, shall be the same as if the state of Montana were a private person, and provisions for counterclaim and setoff shall be the same as if the state of Montana were a private person.

History: En. Sec. 5, Ch. 138, L. 1955; R.C.M. 1947, 83-605.

Cross-References

Civil Procedure, Title 25.

18-1-412. Service of process upon attorney general. In addition to any other requirement for service of process contained in Rule 4(l), M.R.Civ.P., the attorney general of the state of Montana is hereby designated as the person upon whom all process shall be served in actions under the provisions of this part.

History: En. Sec. 6, Ch. 138, L. 1955; amd. Sec. 15, Ch. 343, L. 1977; R.C.M. 1947, 83-606(part); amd. Sec. 1, Ch. 58, L. 1979.

Cross-References

Attorney General — general duties, 2-15-501.

18-1-413. Litigation — compromise. The attorney general has full charge of litigation under this part on behalf of the state of Montana. The attorney general is authorized to arbitrate, compromise, or settle any claim cognizable under this part after the institution of any suit under this part, with the approval of the court in which the suit is pending. The provisions of 2-4-603(1) apply to any arbitration, compromise, or settlement made pursuant to this section.

History: En. Sec. 6, Ch. 138, L. 1955; amd. Sec. 15, Ch. 343, L. 1977; R.C.M. 1947, 83-606(part); amd. Sec. 3, Ch. 451, L. 1999.

Cross-References

Attorney General — general duties, 2-15-501.

18-1-414. Judgments — payment. A final judgment shall be the obligation of the state of Montana and shall be paid out of funds appropriated by the legislature next succeeding the date of judgment.

History: En. Sec. 7, Ch. 138, L. 1955; R.C.M. 1947, 83-607.

Cross-References

Claims against state, Title 17, ch. 8, part 2.

CHAPTER 2
CONSTRUCTION CONTRACTS

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18-2-306. Time of final acceptance and final payment on construction contracts — interest.
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18-2-311. Repealed.
18-2-312. Excusable delays.
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18-2-315. State purchasing not affected.
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18-2-317. State agency performance contracts — exempt.

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18-2-402. Standard prevailing rate of wages.
18-2-403. Preference of Montana labor in public works — wages — tax-exempt project — federal exception.
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18-2-422. Bid specification and public works contract to contain standard prevailing wage rate and payroll record notification.
18-2-423. Submission of payroll records.
18-2-424. Enforcement.
18-2-425. Prohibition — project labor agreement.
18-2-426 through 18-2-430 reserved.
18-2-431. Rulemaking authority.
18-2-432. Penalty for violation.

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18-2-501. Definitions.
18-2-502. Alternative project delivery contract — authority — criteria.
18-2-503. Alternative project delivery contract — award criteria.

Chapter Cross-References

County contracts, Title 7, ch. 5, part 23.
Contract authority — housing authority, Title 7, ch. 15.
Public contractor's tax, Title 15, ch. 50.
Interest assessed on amounts overdue, 17-8-242.
Construction authority — Regents, 20-25-402.
Veterans' employment preference, Title 39, ch. 29.
Persons with disabilities public employment preference, Title 39, ch. 30.
Gifts to public servants having discretionary function in contract letting, 45-7-104.
Illegal interests in contracts, 45-7-401.
Freedom from discrimination in public contracts, 49-3-207.
Construction authority — Department of Transportation, 60-3-101.
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Contract authority of public bodies to acquire open-space land, 76-6-109.
Construction authority — soil and water conservation districts, 76-15-215, 76-15-320, 76-15-321, 76-15-401 through 76-15-406, 76-15-501.
Construction authority — Department of Natural Resources and Conservation — waterworks, 85-1-206, 85-1-211.
Construction authority — irrigation districts, 85-7-1901 through 85-7-1908.
Construction authority — Department of Fish, Wildlife, and Parks — fish hatcheries, 87-1-222, 87-3-201.
Contract authority — Board of Housing, 90-6-104.

Part 1
General Provisions

Part Cross-References

Statewide building construction standards, Title 50, ch. 60.

18-2-101. Definitions of building, costs, and construction. In part 1 of this chapter, with the exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123, the following definitions apply:

(1) (a) "Building" includes a building, facility, or structure:

(i) constructed or purchased wholly or in part with state money;

(ii) at a state institution;

(iii) owned or to be owned by a state agency, including the department of transportation; or

(iv) constructed for the use or benefit of the state with federal or private money as provided in 18-2-102(2)(e).

(b) "Building" does not include a building, facility, or structure:

(i) owned or to be owned by a county, city, town, school district, or special improvement district;

(ii) used as a component part of an environmental remediation or abandoned mine land reclamation project, a highway, or a water conservation project, unless the building will require a continuing state general fund financial obligation after the environmental remediation or abandoned mine land reclamation project is completed; or

(iii) leased or to be leased by a state agency.

(2) (a) "Construction" includes the construction, alteration, repair, maintenance, and remodeling of a building and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and remodeling.

(b) "Construction" does not include work performed under an energy performance contract entered into pursuant to Title 90, chapter 4, part 11.

(3) "Costs" means those expenses defined in 17-5-801.

History: En. Sec. 14, Ch. 271, L. 1963; amd. Sec. 1, Ch. 24, L. 1973; amd. Sec. 81, Ch. 326, L. 1974; R.C.M. 1947, 82-3314; amd. Sec. 4, Ch. 388, L. 1979; amd. Sec. 1, Ch. 67, L. 1981; amd. Sec. 1, Ch. 491, L. 1983; amd. Sec. 1, Ch. 7, L. 1985; amd. Sec. 5, Ch. 372, L. 1985; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 241, L. 1995; amd. Sec. 1, Ch. 392, L. 1997; amd. Sec. 2, Ch. 470, L. 1999; amd. Sec. 6, Ch. 374, L. 2005; amd. Sec. 2, Ch. 439, L. 2009; amd. Sec. 15, Ch. 3, L. 2019.

Cross-References

Remedial action upon release of hazardous substance, Title 75, ch. 10, part 7.
Reclamation, Title 82, ch. 4.

18-2-102. Authority to construct buildings — reporting requirement. (1) Except as provided in 22-3-1003 and subsection (2) of this section, construction activities costing more than $300,000 require the consent of the legislature. Legislative approval of repair and maintenance costs as part of an agency's operating budget constitutes the legislature's consent. When a building costing more than $300,000 is to be financed in a manner that does not require legislative appropriation of money, the consent may be in the form of a joint resolution.

(2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds for an uncompleted capital project unless the project is under the supervision of the same agency.

(b) The regents of the Montana university system may authorize the construction of revenue-producing facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

(c) The regents of the Montana university system, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money if the construction of the building will not result in any new programs.

(d) The regents of the Montana university system may authorize the construction of facilities as provided in 20-25-309.

(e) The department of military affairs, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money on federal land for the use or benefit of the state.

(f) Each year by August 1, the department of administration shall report, in accordance with 5-11-210, to the long-range planning budget committee provided for in 5-12-501 on all buildings constructed without legislative approval that cost between $150,000 and $300,000 during the previous fiscal year.

History: En. Sec. 16, Ch. 271, L. 1963; amd. Sec. 2, Ch. 13, L. 1967; amd. Sec. 83, Ch. 326, L. 1974; R.C.M. 1947, 82-3316; amd. Sec. 2, Ch. 7, L. 1985; amd. Sec. 1, Ch. 518, L. 1993; amd. Sec. 2, Ch. 241, L. 1995; amd. Sec. 1, Ch. 249, L. 1997; amd. Sec. 1, Ch. 403, L. 2007; amd. Sec. 2, Ch. 419, L. 2007; amd. Sec. 1, Ch. 96, L. 2023.

Cross-References

Duties of Department of Military Affairs, 10-1-102, 10-3-105.
Long-range building program bonds, Title 17, ch. 5, part 4.
Long-range building program and budget, Title 17, ch. 7, part 2.
Revenue-producing facilities — powers of Regents, 20-25-302.
Art for state buildings, Title 22, ch. 2, part 4.

18-2-103. Supervision of construction of buildings. (1) For construction activities costing more than $300,000, the department shall:

(a) review and accept all plans, specifications, and cost estimates prepared by architects or consulting engineers;

(b) approve all bond issues or other financial arrangements and supervise and approve the expenditure of all money;

(c) solicit, accept, and reject bids and, except as provided in Title 18, chapter 2, part 5, award all contracts to the lowest qualified bidder considering conformity with specifications and terms and reasonableness of the bid amount;

(d) review and approve all change orders; and

(e) accept the building when completed according to accepted plans and specifications.

(2) The department may delegate on a project-by-project basis any powers and duties under subsection (1) to other state agencies, including units of the Montana university system, upon terms and conditions specified by the department.

(3) Before a contract under subsection (1) is awarded, two formal bids must have been received, if reasonably available.

(4) (a) The department need not require the provisions of Montana law relating to advertising, bidding, or supervision when proposed construction costs are $150,000 or less. However, with respect to a project having a proposed cost of $150,000 or less but more than

$50,000, the agency awarding the contract shall procure at least three informal bids from contractors registered in Montana, if reasonably available.

(b) Starting on July 1, 2028, and every 5 years after that, the department shall adjust the limits in subsection (4)(a) for inflation. The inflation adjustment is found by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2023. The newly adjusted limits must be rounded to the nearest $1,000 and adopted by rule.

(5) The department may negotiate a contract, without competitive bidding, with a contractor qualified to do business in Montana if:

(a) an emergency as defined in 10-3-103 exists; or

(b) a public exigency as defined in 2-17-101 exists.

(6) For the construction of buildings owned or to be owned by a school district, the department shall, upon request, provide inspection to ensure compliance with the plans and specifications for the construction of the buildings. The term "construction" includes construction, repair, alteration, equipping, and furnishing during construction, repair, or alteration. These services must be provided at a cost to be contracted for between the department and the school district, with the receipts to be deposited in the department's construction regulation account in a state special revenue fund.

(7) It is the intent of the legislature that student housing and other facilities constructed under the authority of the regents of the university system are subject to the provisions of subsections (1) through (3).

(8) The department of military affairs may act as the contracting agency for buildings constructed under the authority of 18-2-102(2)(e). However, the department of administration may agree to act as the contracting agency on behalf of the department of military affairs. Montana law applies to any controversy involving a contract.

History: En. Sec. 17, Ch. 271, L. 1963; amd. Sec. 2, Ch. 264, L. 1969; amd. Sec. 2, Ch. 24, L. 1973; amd. Sec. 98, Ch. 326, L. 1974; amd. Sec. 2, Ch. 487, L. 1977; R.C.M. 1947, 82-3317; amd. Sec. 1, Ch. 16, L. 1979; amd. Sec. 15, Ch. 281, L. 1983; amd. Sec. 2, Ch. 491, L. 1983; amd. Sec. 3, Ch. 7, L. 1985; amd. Sec. 1, Ch. 137, L. 1985; amd. Sec. 1, Ch. 466, L. 1985; amd. Sec. 1, Ch. 467, L. 1985; amd. Sec. 1, Ch. 648, L. 1985; amd. Sec. 1, Ch. 350, L. 1989; amd. Sec. 2, Ch. 518, L. 1993; amd. Sec. 2, Ch. 249, L. 1997; amd. Sec. 1, Ch. 303, L. 1999; amd. Sec. 7, Ch. 574, L. 2005; amd. Sec. 16, Ch. 3, L. 2019; amd. Sec. 2, Ch. 96, L. 2023.

Cross-References

Long-range building program bonds, Title 17, ch. 5, part 4.

Bids required — public notice, 18-2-301.

School districts — conflicts of interest, letting contracts, and calling for bids, 20-9-204.

Contracts and Other Obligations, Title 28.

18-2-104. Scheduling of state building program. The department of administration shall, by careful advance planning, ordering of construction priorities, consultation with architects, and timing of bid lettings, direct the building program of the state in such a manner as to reduce to a minimum the effects of weather on construction and to stabilize as far as possible the work opportunities of the construction labor force.

History: En. Sec. 1, Ch. 116, L. 1967; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 78-910.

Cross-References

Long-range building program bonds, Title 17, ch. 5, part 4.

18-2-105. General powers and duties of department of administration. In carrying out powers relating to the construction of buildings, the department of administration may:

(1) inspect buildings not under construction;

(2) contract with the federal government for advance planning funds;

(3) transfer funds and authority to agencies and accept funds and authority from agencies;

(4) subject to 2-17-135, purchase, lease, and acquire by exchange or otherwise, land and buildings in Lewis and Clark County and equipment and furnishings for the buildings;

(5) issue and sell bonds and other securities;

(6) maintain an inventory of all buildings;

(7) appoint a project representative to supervise architects' and consulting engineers' inspection of construction of buildings to ensure that all construction is in accordance with the contracts, plans, and specifications. The cost of supervision may be charged against money available for construction.

(8) negotiate deductive changes, not to exceed 15% of the total cost of a project, with the lowest responsible bidder when the lowest responsible bid causes the project cost to exceed the appropriation or with the lowest responsible bidders, if multiple contracts will be awarded on the project, when the total of the lowest responsible bids causes the project cost to exceed the appropriation. A bidder is not required to negotiate a bid but is required to honor the bid for the time specified in the bidding documents. The department may terminate negotiations at any time.

History: En. Sec. 18, Ch. 271, L. 1963; amd. Sec. 1, Ch. 203, L. 1965; amd. Sec. 84, Ch. 326, L. 1974; R.C.M. 1947, 82-3318; amd. Sec. 1, Ch. 291, L. 1985; amd. Sec. 3, Ch. 518, L. 1993; amd. Sec. 3, Ch. 249, L. 1997; amd. Sec. 12, Ch. 217, L. 2007; amd. Sec. 3, Ch. 96, L. 2023.

Cross-References

Property management, Title 2, ch. 17.

Contract provisions necessary for federal funds, 18-2-313.

18-2-106. Pecuniary interest prohibited. (1) The director of administration and the state architect may not have a direct or indirect pecuniary interest in any contract, transaction, or project involving the construction of a building.

(2) An employee of the department who is directly responsible for construction procurement may not have a direct pecuniary interest in a contract for the construction of a building unless the contract is awarded through a competitive procurement procedure.

History: En. Sec. 21, Ch. 271, L. 1963; amd. Sec. 85, Ch. 326, L. 1974; R.C.M. 1947, 82-3321; amd. Sec. 2, Ch. 303, L. 1999.

Cross-References

Standards of conduct for public employees, Title 2, ch. 2.

Illegal interests in contracts, 45-7-401.

18-2-107. Deposit of capitol building grant revenue. (1) The state treasurer shall deposit in a capital projects fund all revenue from the capitol building land grant after any deductions made under 77-1-109.

(2) The funds must be held and dedicated for the purpose of constructing capitol buildings or additions to buildings in accordance with the provisions of section 12 of The Enabling Act.

History: (1)En. Sec. 1, Ch. 120, L. 1943; amd. Sec. 49, Ch. 147, L. 1963; Sec. 78-501, R.C.M. 1947; (2)En. Sec. 3, Ch. 120, L. 1943; amd. Sec. 50, Ch. 147, L. 1963; Sec. 78-503, R.C.M. 1947; R.C.M. 1947, 78-501, 78-503; amd. Sec. 2, Ch. 277, L. 1983; amd. Sec. 6, Ch. 533, L. 1993; amd. Sec. 4, Ch. 122, L. 1999; amd. Sec. 3, Ch. 355, L. 2003; amd. Sec. 3, Ch. 465, L. 2009.

Cross-References

Deposit of funds in hands of State Treasurer, 17-6-101.

18-2-108. Compliance with state laws and regulations. All buildings built or leased or purchased under this title must comply with all laws, safety codes, and rules of the state of Montana.

History: En. 82-3315.8 by Sec. 8, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.8.

Cross-References

Building construction standards, Title 50, ch. 60.

18-2-109. Exemption from environmental review. The department of administration is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when inspecting, contracting, transferring funds, bonding, inventorying, supervising, and carrying out other general powers and duties of the department of administration for the construction, renovation, or repair of a building, structure, or utility infrastructure located above or below ground on land owned by the state and for projects and developments in the long-range building program pursuant to Title 17, chapter 7, part 2.

History: En. Sec. 3, Ch. 297, L. 2025.

Compiler's Comments

Effective Date: Section 9, Ch. 297, L. 2025, provided: "[This act] is effective on passage and approval." Approved May 1, 2025.

Cross-References

Agency determination of categorical exclusion, 75-1-209.

18-2-110 reserved.

18-2-111. Policy regarding practice of architecture or engineering — preparation of working drawings by department limited. (1) It is the policy of the state not to engage in the practice of architecture or engineering. However, this policy may not be construed as prohibiting the department of administration from:

(a) engaging in preplanning functions necessary to prepare a building program for presentation to the legislature;

(b) supervising construction as provided in 18-2-105(7); or

(c) preparing working drawings for minor projects.

(2) The department of administration may not prepare working drawings for construction activities, with the exception of repair or maintenance projects, when the total cost of the construction will exceed $150,000.

(3) This policy may not be construed to grant the department an exception from the licensing requirements of Title 67, chapter 65 or 67, or the seal requirements provided in 18-2-114 and 18-2-122.

History: En. Sec. 20, Ch. 271, L. 1963; amd. Sec. 1, Ch. 371, L. 1977; R.C.M. 1947, 82-3320; amd. Sec. 3, Ch. 491, L. 1983; amd. Sec. 4, Ch. 518, L. 1993; amd. Sec. 1, Ch. 470, L. 1995; amd. Sec. 4, Ch. 96, L. 2023.

Cross-References

Preparation of building programs and submission to Department of Administration, 17-7-202.

Procurement of architectural, engineering, and land surveying services by governmental entities, Title 18, ch. 8, part 2.

Architecture, Title 37, ch. 65.

18-2-112. Appointment of architects and consulting engineers. The department of administration shall appoint any architect or consulting engineer retained for work on any building to be constructed, remodeled, or renovated by the state of Montana, its boards, institutions, and agencies from a list of three architects or consulting engineers proposed by the state board, institution, or agency where the work is to be done. The department need not appoint an architect or consulting engineer for repair or maintenance projects.

History: En. Sec. 19, Ch. 271, L. 1963; amd. Sec. 1, Ch. 231, L. 1965; amd. Sec. 1, Ch. 83, L. 1973; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 82-3319; amd. Sec. 4, Ch. 491, L. 1983; amd. Sec. 2, Ch. 22, L. 1993; amd. Sec. 5, Ch. 518, L. 1993.

Cross-References

Procurement of architectural, engineering, and land surveying services by governmental entities, Title 18, ch. 8, part 2.

18-2-113. Architects on public buildings to be certified. A contract for the employment of or the rendering of professional services by any person relating to the planning or construction of public buildings or other public works or improvements may not be entered into by this state or its agencies or a county, city, or school district in this state unless the person is the holder in good standing of a license granted under Title 37, chapter 65, by the board of architects and landscape architects.

History: En. Sec. 1, Ch. 190, L. 1953; amd. Sec. 32, Ch. 350, L. 1974; amd. Sec. 6, Ch. 544, L. 1977; R.C.M. 1947, 66-113; amd. Sec. 7, Ch. 11, L. 2007.

Cross-References

Licensing of architects, Title 37, ch. 65, part 3.

18-2-114. Seal and signature of architect on plans. All architectural plans and specifications for public buildings of the state of Montana or any agency thereof or of any county, city, or school district of the state shall bear the seal and signature of the architect responsible therefor.

History: En. Sec. 2, Ch. 190, L. 1953; amd. Sec. 1, Ch. 68, L. 1957; amd. Sec. 1, Ch. 167, L. 1961; amd. Sec. 1, Ch. 220, L. 1965; amd. Sec. 1, Ch. 131, L. 1967; amd. Sec. 7, Ch. 544, L. 1977; R.C.M. 1947, 66-114(part).

Cross-References

Seal of architect, 37-65-308.

18-2-115. Repealed. Sec. 12, Ch. 388, L. 1979.

History: En. Sec. 2, Ch. 190, L. 1953; amd. Sec. 1, Ch. 68, L. 1957; amd. Sec. 1, Ch. 167, L. 1961; amd. Sec. 1, Ch. 220, L. 1965; amd. Sec. 1, Ch. 131, L. 1967; amd. Sec. 7, Ch. 544, L. 1977; R.C.M. 1947, 66-114(part).

18-2-116 through 18-2-120 reserved.

18-2-121. Engineer or land surveyor to supervise project. This state and its political subdivisions such as counties, cities, towns, townships, boroughs, or other political entities or legally constituted boards, commissions, or authorities or officials or employees thereof shall not engage in the practice of engineering or land surveying involving either public or private property without the project being under the direct charge and supervision of a professional engineer for engineering projects or land surveyor for all land surveying projects, as provided for the practice of the respective professions by Title 37.

History: En. 66-2363 by Sec. 11, Ch. 366, L. 1975; R.C.M. 1947, 66-2363(part).

Cross-References

Licensing engineers and land surveyors, Title 37, ch. 67, part 3.

18-2-122. Plans to bear seal. This state and its political subdivisions such as counties, cities, towns, townships, boroughs, or other political entities or legally constituted boards, commissions, or authorities or officials or employees thereof may not accept plans and specifications for public buildings, water systems and storage facilities, sewerage systems, wastewater disposal projects, swimming pools, recreational facilities, and similar type projects which may have a direct bearing on the public health and safety for approval unless they bear the seal of the professional engineer for engineering projects or the professional land surveyor for land surveying projects or licensed architect for architectural projects, as provided for the practice of the respective professions by Title 37.

History: En. 66-2363 by Sec. 11, Ch. 366, L. 1975; R.C.M. 1947, 66-2363(part); amd. Sec. 24, Ch. 83, L. 1989.

Cross-References

Seal of architect, 37-65-308.

Issuance of certificates — seal of engineer or land surveyor, 37-67-314.

18-2-123. Payment of contractors and subcontractors. Notwithstanding any other provision of this title, payment of a construction contractor or subcontractor, as those terms are defined in 28-2-2101, for services performed by a construction contractor or subcontractor is governed by the provisions of Title 28, chapter 2, part 21.

History: En. Sec. 1, Ch. 470, L. 1999.

18-2-124. Construction contract indemnification provisions. (1) Except as provided in subsections (2) and (3), a construction contract provision that requires one party to the contract to indemnify, hold harmless, insure, or defend the other party to the contract or the other party's officers, employees, or agents for liability, damages, losses, or costs that are caused by the negligence, recklessness, or intentional misconduct of the other party or the other party's officers, employees, or agents is void as against the public policy of this state.

(2) A construction contract may contain a provision:

(a) requiring one party to the contract to indemnify, hold harmless, or insure the other party to the contract or the other party's officers, employees, or agents for liability, damages, losses, or costs, including but not limited to reasonable attorney fees, only to the extent that the liability, damages, losses, or costs are caused by the negligence, recklessness, or intentional misconduct of a third party or of the indemnifying party or the indemnifying party's officers, employees, or agents; or

(b) requiring a party to the contract to purchase a project-specific insurance policy, including but not limited to an owner's and contractor's protective insurance, a project management protective liability insurance, or a builder's risk insurance.

(3) This section does not apply to indemnity of a surety by a principal on a construction contract bond or to an insurer's obligation to its insureds.

(4) As used in this section, "construction contract" means an agreement for architectural services, alterations, construction, demolition, design services, development, engineering services, excavation, maintenance, repair, or other improvement to real property, including an agreement to supply labor, materials, or equipment for an improvement to real property.

History: En. Sec. 1, Ch. 259, L. 2007.

Part 2
Performance, Labor, and Materials Bonds

Part Cross-References

Bond of contractor in rural improvement district, 7-12-2138.

Highways — bidder's security — contractor's bond, 60-2-113.

18-2-201. Security requirements. (1) (a) Except as otherwise provided in 85-1-219 and subsections (3) through (5) of this section, whenever any board, council, commission, trustees, or body acting for the state or any county, municipality, or public body contracts with a person or corporation to do work for the state, county, or municipality or other public body, city, town, or district, the board, council, commission, trustees, or body shall require the person or corporation with whom the contract is made to make, execute, and deliver to the board, council, commission, trustees, or body a good and sufficient bond with a surety company, licensed in this state, as surety, conditioned that the person or corporation shall:

(i) faithfully perform all provisions of the contract;

(ii) pay all laborers, mechanics, subcontractors, and material suppliers; and

(iii) pay all persons who supply the person, corporation, or subcontractors with provisions, provender, material, or supplies for performing the work.

(b) The state or other governmental entity listed in subsection (1)(a) may not require that any bond required by subsection (1)(a) be furnished by a particular surety company or by a particular insurance producer for a surety company.

(2) The state or other governmental entity listed in subsection (1)(a) may, in lieu of a surety bond, permit the deposit with the contracting governmental entity or agency of the following securities in an amount at least equal to the contract sum to guarantee the faithful performance of the contract and the payment of all laborers, suppliers, material suppliers, mechanics, and subcontractors:

(a) lawful money of the United States; or

(b) a cashier's check, certified check, bank money order, certificate of deposit, money market certificate, bank draft, or irrevocable letter of credit, drawn or issued by:

(i) any federally or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the federal deposit insurance corporation; or

(ii) a credit union insured by the national credit union share insurance fund.

(3) Any board, council, commission, trustee, or body acting for any county, municipality, or public body other than the state may, subject to the provisions of subsection (1)(b), in lieu of a bond from a licensed surety company, accept good and sufficient bond with two or more sureties acceptable to the governmental entity.

(4) Except as provided in subsection (5), the state or other governmental entity may waive the requirements contained in subsections (1) through (3) for building or construction projects, as defined in 18-2-101, that cost less than $150,000.

(5) A school district may waive the requirements contained in subsections (1) through (3) for building or construction projects, as defined in 18-2-101, that cost less than $7,500.

History: En. Sec. 1, Ch. 20, L. 1931; re-en. Sec. 5668.41, R.C.M. 1935; R.C.M. 1947, 6-401(part); amd. Sec. 1, Ch. 602, L. 1981; amd. Sec. 1, Ch. 147, L. 1985; amd. Sec. 2, Ch. 498, L. 1985; amd. Sec. 1, Ch. 250, L. 1987; amd. Sec. 59, Ch. 370, L. 1987; amd. Sec. 1, Ch. 236, L. 1993; amd. Sec. 1, Ch. 130, L. 1995; amd. Sec. 4, Ch. 249, L. 1997; amd. Sec. 1, Ch. 112, L. 1999; amd. Sec. 3, Ch. 303, L. 1999; amd. Sec. 2, Ch. 203, L. 2003; amd. Sec. 1, Ch. 186, L. 2005; amd. Sec. 5, Ch. 96, L. 2023.

Cross-References

Suretyship, Title 28, ch. 11, part 4.

18-2-202. Failure to require security — waiver. If any board, council, commission, trustee, or body acting for the state or any board of county commissioners or any mayor and common council of any incorporated city or town or tribunal transacting the business of any such municipal corporation waives or fails to take the security required or authorized by 18-2-201, the state or the county, incorporated city or town, or other municipal corporation is liable to the persons mentioned in 18-2-201 to the full extent and for the full amount of all of the contracted debts by any subcontractor as well as the contractor.

History: En. Sec. 3, Ch. 20, L. 1931; re-en. Sec. 5668.43, R.C.M. 1935; R.C.M. 1947, 6-403; amd. Sec. 2, Ch. 602, L. 1981; amd. Sec. 2, Ch. 250, L. 1987; amd. Sec. 2, Ch. 130, L. 1995.

Cross-References

Liens, Title 71, ch. 3.

18-2-203. Amount and terms of security. The security mentioned in 18-2-201 must be in an amount equal to the full contract price agreed to be paid for the work or improvement and must be to the state of Montana, except in cases of cities and towns, in which case the municipality may by general ordinance fix and determine the amount of the security and the

name of the secured party, provided that the amount may not be for less than 25% of the contract price of the improvement, and the security may designate that the amount is payable to the city or town and not to the state of Montana.

History: En. Sec. 4, Ch. 20, L. 1931; re-en. Sec. 5668.44, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1941; amd. Sec. 1, Ch. 175, L. 1957; R.C.M. 1947, 6-404(part); amd. Sec. 3, Ch. 130, L. 1995.

Cross-References

Suretyship, Title 28, ch. 11, part 4.

18-2-204. Right of action on security — notice. (1) All persons mentioned in 18-2-201 have a right of action in their own name or names on any security furnished under the terms of this part for work done by the laborers or mechanics and for food, materials, supplies, provisions, or goods supplied and furnished in the work or the making of the improvements. The persons do not have any right of action on the security unless within 90 days after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county, or municipality or other public body, city, town, or district, the laborer, mechanic or subcontractor, or material supplier or person claiming to have supplied food, materials, provisions, or goods for the performance of the work or the making of the improvement presents to and files with the board, council, commission, trustees, or body acting for the state, county, or municipality or other public body, city, town, or district a notice in writing in substance as follows:

"TO (here insert the name of the state, county, or municipality or other public body, city, town, or district):

NOTICE IS HEREBY GIVEN that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier or person claiming to have furnished labor, materials, or provisions for the contract or work) has a claim in the sum of .... dollars (here insert the amount) against the security taken from .... (here insert the name of the principal and name of the person providing the security) for the work of .... (here insert a brief mention or description of the work concerning which the security was taken). (Here to be signed) ...."

(2) The notice must be signed by the person or corporation making the claim or giving the notice. After being presented and filed, the notice is a public record open to inspection by any person.

History: En. Sec. 4, Ch. 20, L. 1931; re-en. Sec. 5668.44, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1941; amd. Sec. 1, Ch. 175, L. 1957; R.C.M. 1947, 6-404(part); amd. Sec. 4, Ch. 130, L. 1995; amd. Sec. 224, Ch. 56, L. 2009.

Cross-References

Public records generally, Title 2, ch. 6, part 10.
Suretyship, Title 28, ch. 11, part 4.
Liens, Title 71, ch. 3.

18-2-205. Effect of dealing with subcontractor. A corporation or person performing services or furnishing provender, provisions, supplies, or material to a subcontractor has the same right under the provisions of the security as if the work, services, provender, provisions, supplies, or material was furnished to the original contractor.

History: En. Sec. 1, Ch. 20, L. 1931; re-en. Sec. 5668.41, R.C.M. 1935; R.C.M. 1947, 6-401(part); amd. Sec. 5, Ch. 130, L. 1995.

Cross-References

Liens, Title 71, ch. 3.

18-2-206. Notice to contractor concerning subcontractor. (1) A person, firm, or corporation furnishing provender, provisions, materials, or supplies to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state or any county, city, town, district, municipality, or other public body shall, not later than 30 days after the date of the first delivery to a subcontractor or agent of a person, firm, or corporation having a subcontract for the construction, performance, carrying on, prosecution, or doing of the work, give a notice of a right of action on the security.

(2) (a) The notice must be delivered personally or sent by certified mail to the contractor.

(b) The notice must be in writing and state:

(i) that it is a notice of a right of action on the security;

(ii) that the person, firm, or corporation giving the notice has commenced to deliver provender, provisions, materials, or supplies;

(iii) the name of the subcontractor or agent who placed the order or to whom the provender, provisions, materials, or supplies were delivered; and

(iv) that the contractor and the contractor's security will be held for the unpaid price if the supplier is not paid.

(3) To have a right of action against the contractor and the security under this part, a person, firm, or corporation shall give the written notice required by this section in substantially the form described in subsection (2). Any other type of actual or constructive notice is not sufficient.

(4) A suit or action may not be maintained in any court against the contractor or the security to recover for the provender, provisions, materials, or supplies or any part thereof unless the provisions of this part have been complied with.

History: En. Sec. 2, Ch. 20, L. 1931; re-en. Sec. 5668.42, R.C.M. 1935; amd. Sec. 1, Ch. 115, L. 1967; R.C.M. 1947, 6-402; amd. Sec. 1, Ch. 637, L. 1987; amd. Sec. 6, Ch. 130, L. 1995.

Cross-References

Suretyship, Title 28, ch. 11, part 4.
Liens, Title 71, ch. 3.

18-2-207. Costs — attorney fees. In a suit or action brought against the surety, payor, or other person liable on the security by a person or corporation to recover for any of the items specified in this part, the prevailing party is entitled to recover, in addition to all other costs, attorney fees in a sum that the court finds reasonable. However, attorney fees may not be allowed in a suit or action brought or instituted before the expiration of 30 days following the date of filing of the notice required in 18-2-206.

History: En. Sec. 4, Ch. 20, L. 1931; re-en. Sec. 5668.44, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1941; amd. Sec. 1, Ch. 175, L. 1957; R.C.M. 1947, 6-404(part); amd. Sec. 7, Ch. 130, L. 1995.

Cross-References

Costs and attorney fees, Title 25, ch. 10, parts 1 through 3.
Suretyship, Title 28, ch. 11, part 4.

18-2-208. Exceptions. (1) The provisions of this part do not apply to money loaned or advanced to a contractor, subcontractor, or other person in the performance of the work.

(2) A city or town may impose any other or further conditions and obligations in the security that is considered necessary for its proper protection in the fulfillment of the terms of the contract and not in conflict with this part.

(3) The notice required by 18-2-204 to be given within 90 days after completion of the contract and acceptance of the work may not be construed to prevent or delay the payment of money due the contractor under the terms and conditions specified in the contract.

History: (1)En. Sec. 1, Ch. 20, L. 1931; re-en. Sec. 5668.41, R.C.M. 1935; Sec. 6-401, R.C.M. 1947; (2), (3)En. Sec. 4, Ch. 20, L. 1931; re-en. Sec. 5668.44, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1941; amd. Sec. 1, Ch. 175, L. 1957; Sec. 6-404, R.C.M. 1947; R.C.M. 1947, 6-401(part), 6-404(part); amd. Sec. 8, Ch. 130, L. 1995.

Cross-References

Suretyship, Title 28, ch. 11, part 4.

Part 3
Contract Requirements and Restrictions

Part Cross-References

Illegal interest in contracts, 45-7-401.

18-2-301. Bids required — public notice. (1) (a) Offices, departments, or institutions, or any agent of the state of Montana acting for or on behalf of the state, may not do, cause to be done, or let any contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on behalf of and for the benefit of the state when the amount involved is $150,000 or more without first providing public notice for 3 consecutive weeks, calling for sealed bids to perform the work, and stating the time and place bids will be considered. Notice may include electronic notification, publication in newspapers of general circulation, or other appropriate means.

(b) Starting July 1, 2028, and every 5 years after that, the department shall adjust the limits in subsection (1)(a) for inflation. The inflation adjustment is determined by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2023. The newly adjusted limits must be rounded to the nearest $1,000 and adopted by rule.

(2) All work may be done, caused to be done, or contracted for only after competitive bidding.

(3) If responsible bids are not received after two attempts, the department or agency may contract for the work in a manner determined to be cost-effective for the state.

(4) This section does not apply to work done by inmates at an institution in the department of corrections.

(5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply when the department of fish, wildlife, and parks is preserving or restoring the historic buildings and resources that it owns at Bannack if:

(i) the options listed in subsection (5)(b) are determined to be more cost-effective for the state; and

(ii) the implementation of the options listed in subsection (5)(b) is necessary to save historic buildings and resources from degradation and loss.

(b) For the preservation or restoration of historic buildings and resources at Bannack when the conditions listed in subsection (5)(a) are met, the department of fish, wildlife, and parks may accomplish the preservation or restoration through:

(i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization when the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or restore historic resources;

(ii) the use of qualified and trained department of fish, wildlife, and parks employees and volunteers;

(iii) a training program in historic preservation and restoration conducted by a qualified local, state, or federal entity or a qualified nonprofit organization; or

(iv) any combination of the options described in subsections (5)(b)(i) through (5)(b)(iii).

(c) The provisions of Montana law governing advertising and competitive bidding do not apply when the department of military affairs, in conjunction with military training, is ensuring the necessary upgrades, preservation, and restoration of facilities within their jurisdiction or ensuring the preparedness of military personnel.

History: (1) thru (3)En. Sec. 1, Ch. 149, L. 1927; re-en. Sec. 259.1, R.C.M. 1935; amd. Sec. 1, Ch. 142, L. 1961; amd. Sec. 1, Ch. 97, L. 1977; Sec. 82-1131, R.C.M. 1947; (4)En. Sec. 2, Ch. 142, L. 1961; amd. Sec. 92, Ch. 199, L. 1965; amd. Sec. 54, Ch. 326, L. 1974; Sec. 82-1131.1, R.C.M. 1947; R.C.M. 1947, 82-1131, 82-1131.1; amd. Sec. 2, Ch. 16, L. 1979; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 6, Ch. 518, L. 1993; amd. Sec. 61, Ch. 546, L. 1995; amd. Sec. 1, Ch. 57, L. 1997; amd. Sec. 5, Ch. 249, L. 1997; amd. Sec. 6, Ch. 96, L. 2023; amd. Sec. 1, Ch. 78, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 78, L. 2025. Amendment effective October 1, 2025.

Cross-References

Supervision of construction of buildings, 18-2-103.

18-2-302. Bid security — waiver — authority to submit. (1) (a) Except as provided in subsection (2), each bid must be accompanied by bid security in the amount of 10% of the bid. The security may consist of cash, a cashier's check, a certified check, a bank money order, a certificate of deposit, a money market certificate, an irrevocable letter of credit, or a bank draft. The security must be:

(i) drawn and issued by a federally chartered or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the federal deposit insurance corporation;

(ii) drawn and issued by a credit union insured by the national credit union share insurance fund; or

(iii) a bid bond or bonds executed by a surety company authorized to do business in the state of Montana. The state or other governmental entity may accept electronic bid bonds signed electronically or otherwise verified by the bidder and the surety.

(b) The state or other governmental entity may not require that a bid bond or bond provided for in subsection (1)(a)(iii) be furnished by a particular surety company or by a particular insurance producer for a surety company.

(2) The state or other governmental entity may waive the requirements for bid security on building or construction projects, as defined in 18-2-101, that cost less than $150,000.

(3) The bid security must be signed by an individual authorized to submit the security by the corporation or other business entity on whose behalf the security is submitted. If the request for bid or other specifications provided by the state or other governmental entity specify the form or content of the bid security, the security submitted must comply with the requirements of that specification.

History: En. Sec. 3, Ch. 149, L. 1927; re-en. Sec. 259.3, R.C.M. 1935; amd. Sec. 2, Ch. 193, L. 1977; amd. Sec. 1, Ch. 487, L. 1977; R.C.M. 1947, 82-1133; amd. Sec. 3, Ch. 250, L. 1987; amd. Sec. 9, Ch. 130, L. 1995; amd. Sec. 6, Ch. 249, L. 1997; amd. Sec. 1, Ch. 282, L. 1999; amd. Sec. 3, Ch. 203, L. 2003; amd. Sec. 7, Ch. 96, L. 2023; amd. Sec. 1, Ch. 165, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 165, L. 2025. Amendment effective October 1, 2025.

Cross-References

Advertisement for bid to specify required security, 18-1-202.
Form of security, 18-1-203.
Forfeiture — bidder's liability, 18-1-204.
Suretyship, Title 28, ch. 11, part 4.
Acceptance and issuance of drafts and letters of credit, 32-1-437.
Certified checks, 32-1-441.

18-2-303. Construction bids — minimum requirements — effect of failure to comply. (1) Each bid communicated to a state agency for the construction of a building must contain or be accompanied by the following items that may not be waived by the state agency:

(a) bid security, as required by 18-2-302;

(b) the unit price for each item required to be bid by unit price; and

(c) the signature, including an electronic signature allowed under 60-2-113, of an individual authorized to submit the bid and authorized by that submission to agree to perform the contract if the bid is accepted. If the request for bid or other specifications provided by the state agency specify the individual required to submit the bid, the bid must comply with that requirement.

(2) The unit price must be expressly stated in the bid and may not have to be calculated by the state agency by dividing the total of the unit prices by the number of units specified or required.

(3) A bid that does not include the items required by subsection (1) as part of or along with the bid may not be accepted by the state agency.

(4) The following definitions apply to this section:

(a) "Building" has the meaning provided in 18-2-101.

(b) "Construction" has the meaning provided in 18-2-101.

(c) "State agency" means a department, board, commission, authority, or office of a branch of state government, including the board of regents and the Montana university system.

(d) "Unit price" means the price of lumber, concrete, earth, pipe, or other construction item, activity, or material for which the price is required by the request for bids to be bid on the basis of that item, a linear foot, square foot, square yard, cubic yard, activity an hour or other measurement of time, or other standard unit of measurement for that material, item, or activity.

History: En. Sec. 2, Ch. 282, L. 1999; amd. Sec. 1, Ch. 48, L. 2009.

18-2-304 and 18-2-305 reserved.

18-2-306. Time of final acceptance and final payment on construction contracts — interest. (1) A government entity that enters into a contract for the construction of a building shall, unless otherwise provided by law or the contract and within 10 days after a request by the construction contractor for final acceptance, decide whether or not to make final acceptance. Within 30 days after final acceptance by the government entity, the government entity shall make the final payment of the contract price specified in the contract to the other party to the contract.

(2) Except as provided by law or the contract, a government entity that fails to complete the payment of the contract price at the time required by subsection (1) shall pay to the other party to the contract interest at the rate specified in 17-8-242 or 18-1-404, as applicable. Collection of interest pursuant to this section does not preclude any other legal remedy.

(3) The following definitions apply to this section:

(a) "Building" has the meaning provided in 18-2-101.

(b) "Construction" has the meaning provided in 18-2-101.

(c) "Final acceptance" means the government entity's acceptance of the construction of a building by the contractor upon certification by the architect, project engineer, or other representative of the government entity of final completion of the building.

(d) "Final completion" means that the building has been completed in accordance with the terms and conditions of the contract documents.

(e) "Government entity" means a department, agency, commission, board, authority, institution, or office of the state, including the board of regents and the Montana university system, a municipality, county, consolidated municipal-county government, school district, or other special district.

History: En. Sec. 1, Ch. 439, L. 1999; amd. Sec. 13, Ch. 181, L. 2001.

18-2-307 through 18-2-310 reserved.

18-2-311. Repealed. Sec. 3, Ch. 87, L. 1985.

History: En. Sec. 1, Ch. 141, L. 1967; R.C.M. 1947, 82-1927.

18-2-312. Excusable delays. A public contractor shall not be considered to be working beyond contract time if the delay is caused by an accident or casualty produced by physical cause which is not preventable by human foresight, i.e., any of the misadventures termed an "act of God".

History: En. Sec. 2, Ch. 141, L. 1967; R.C.M. 1947, 82-1928.

Cross-References

When delay or failure to perform or offer to perform excused, 28-1-1301.

18-2-313. Contract provisions necessary for federal funds. In all contracts let for state, county, municipal, and school construction, repair, or maintenance work under any of the laws of this state when the funds for the projects are supplied in whole or in part from funds of the United States government, it is lawful to insert in each of the contracts any provisions that are or will be necessary to have such contract conform to any federal statutes or regulation under which such funds are supplied.

History: En. Sec. 1, Ch. 43, Ex. L. 1933; re-en. Sec. 269.1, R.C.M. 1935; amd. Sec. 2, Ch. 97, L. 1977; R.C.M. 1947, 82-1147.

Cross-References

Federal revenue and endowments, Title 17, ch. 3.
Authority to construct buildings, 18-2-102.
General powers and duties of Department of Administration, 18-2-105.
Preference of Montana labor in public works — wages — federal exception, 18-2-403.

18-2-314. Cost-plus system invalid. Any contracts made by, on behalf of, or for the state of Montana which shall directly or indirectly recognize the cost-plus system or principle shall be void and of no effect and this section shall stand as a notice of the invalidity of any such contract.

History: En. Sec. 5, Ch. 149, L. 1927; re-en. Sec. 259.5, R.C.M. 1935; R.C.M. 1947, 82-1135.

Cross-References

When contract wholly void, 28-2-603.
When contract partially void, 28-2-604.
What conditions void, 28-2-707.

18-2-315. State purchasing not affected. Nothing contained in 18-2-301, 18-2-302, or 18-2-314 alters, modifies, or changes the laws providing for or relating to department of administration functions relating to state purchasing.

History: En. Sec. 6, Ch. 149, L. 1927; re-en. Sec. 259.6, R.C.M. 1935; amd. Sec. 55, Ch. 326, L. 1974; R.C.M. 1947, 82-1136.

Cross-References

Procurement generally, Title 18, ch. 4.
Special purchasing conditions, Title 18, ch. 5.

18-2-316. Limit on retainage for public contracts. (1) The maximum retainage applied to construction contracts administered by the state of Montana or any department, agency, or political subdivision of the state of Montana, by any county, municipality, or political

subdivision of a county or municipality, or by a school district may not exceed 5% if the contractor is performing by the terms of the contract.

(2) The retainage percentage withheld by a government entity, as provided for in subsection (1), from a contractor is the maximum retainage percentage that a contractor may withhold from a subcontractor.

(3) For the purposes for this section, "retainage" means the ratio, in percent, of funds retained to the total amount to be paid to the contractor by the government entity.

History: En. Sec. 2, Ch. 222, L. 1999.

Cross-References

Limit on retainage, 28-2-2110.

18-2-317. State agency performance contracts — exempt. Energy performance contracts entered into by state agencies pursuant to Title 90, chapter 4, part 11, are exempt from this part.

History: En. Sec. 1, Ch. 439, L. 2009.

Part 4
Special Conditions — Standard Prevailing Rate of Wages

Part Cross-References

Wage protection for employees of mineral and oil industry, 39-3-501.
Hours of labor for employees on state-aided projects, 39-4-107.
Freedom from discrimination in public contracts, 49-3-207.
Letting of contracts on state and federal-aid highways, 60-2-111.

18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) (a) "Bona fide Montana resident" means an individual who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the individual's past habitation in this state has been coupled with an intention to make this state the individual's home.

(b) Individuals who come to Montana solely in pursuit of a contract or an agreement to perform labor may not be considered to be bona fide Montana residents within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in building construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) "Contractor" means any individual, general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "District" means a prevailing wage rate district established as provided in 18-2-411.

(7) "Employer" means any individual, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

(8) "Fringe benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide programs approved by the U.S. department of labor.

(9) "Nonconstruction services" means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;
(e) law enforcement, including janitors and prison guards;
(f) fire protection;
(g) public or school transportation driving;
(h) nursing, nurse's aid services, and medical laboratory technician services;
(i) material and mail handling;
(j) food service and cooking;
(k) motor vehicle and construction equipment repair and servicing; and
(l) appliance and office machine repair and servicing.

(10) "Project location" means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) "Public works contract" means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000. The nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) "Special circumstances" means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established as provided in:
(a) 18-2-413 for building construction services;
(b) 18-2-414 for heavy construction services and for highway construction services; and
(c) 18-2-415 for nonconstruction services.

(14) "Work of a similar character" means work on private commercial projects as well as work on public projects.

History: **(1), (4)En. Sec. 2, Ch. 102, L. 1931; re-en. Sec. 3043.2, R.C.M. 1935; Sec. 41-702, R.C.M. 1947; (2), (3)En. Sec. 1, Ch. 139, L. 1981; (5)En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; Sec. 41-701, R.C.M. 1947; R.C.M. 1947, 41-701(part), 41-702; amd. Sec. 1, Ch. 139, L. 1981; amd. Sec. 2, Ch. 561, L. 1987; amd. Sec. 2, Ch. 609, L. 1993; amd. Sec. 1, Ch. 522, L. 1997; amd. Sec. 1, Ch. 30, L. 1999; amd. Sec. 1, Ch. 289, L. 1999; amd. Sec. 1, Ch. 496, L. 1999; amd. Sec. 1, Ch. 517, L. 2001; amd. Sec. 1, Ch. 293, L. 2003; amd. Sec. 39, Ch. 2, L. 2009; amd. Sec. 11, Ch. 277, L. 2009.**

18-2-402. Standard prevailing rate of wages. (1) The commissioner may determine the standard prevailing rate of wages, including fringe benefits, applicable to public works contracts under this part. The commissioner shall keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances in which the standard prevailing rate of wages is determined by federal law.

(3) Whenever this part is applicable, the standard prevailing rate of wages, including fringe benefits, is the greater of the highest applicable rate of wages in the area for the particular work in question as negotiated under existing and current collective bargaining agreements or the rate determined by the applicable survey under this part.

History: **En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; R.C.M. 1947, 41-701(1), (4), (5); amd. Sec. 3, Ch. 561, L. 1987; amd. Sec. 12, Ch. 277, L. 2009; amd. Sec. 1, Ch. 373, L. 2013.**

Cross-References

Labor — wages and wage protection, Title 39, ch. 3.

18-2-403. Preference of Montana labor in public works — wages — tax-exempt project — federal exception. (1) In every public works contract, there must be inserted in the bid specification and the public works contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents in the performance of the work.

(2) All public works contracts for construction services under subsection (1), except those for heavy and highway construction, that are conducted at the project location or under special circumstances must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits, that is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the standard prevailing wage rates established statewide for heavy and highway construction services conducted at the project location or under special circumstances.

(4) Except as provided in subsection (5), all public works contracts for nonconstruction services under subsection (1) must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits, that is in effect and applicable to the district in which the work is being performed.

(5) An employer who, as a nonprofit organization providing individuals with vocational rehabilitation, performs a public works contract for nonconstruction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability may pay the individual wages that are less than the standard prevailing wage if the employer complies with the provisions of section 214(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 214 and 29 CFR, part 525, and the wages paid are equal to or above the minimum wage required in 39-3-409.

(6) Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.

(7) A contract, other than a public works contract, let for a project costing more than $25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, must contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(8) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (7) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(9) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency.

History: **En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; R.C.M. 1947, 41-701(part); amd. Sec. 2, Ch. 58, L. 1979; amd. Sec. 2, Ch. 139, L. 1981; amd. Sec. 4, Ch. 561, L. 1987; (4)En. Sec. 1, Ch. 420, L. 1991; amd. Sec. 3, Ch. 464, L. 1993; amd. Sec. 3, Ch. 609, L. 1993; amd. Sec. 2, Ch. 522, L. 1997; amd. Sec. 2, Ch. 289, L. 1999; amd. Sec. 1, Ch. 467, L. 2003; amd. Sec. 13, Ch. 277, L. 2009.**

Cross-References

State contracts to lowest resident bidder, 18-1-102.
Impartiality to be shown in letting contracts — preference to residents, 18-1-111.
Authority to construct buildings, 18-2-102.
General powers and duties of Department of Administration, 18-2-105.
Contract provisions necessary for federal funds, 18-2-313.
Method for payment of standard prevailing wage, 18-2-412.
Veterans' employment preference, Title 39, ch. 29.
Persons with disabilities public employment preference, Title 39, ch. 30.
Nondiscrimination provision in all public contracts, 49-3-207.

18-2-404. Approval of public works contract — bond. (1) All public works contracts under this part must be approved in writing by the legal adviser of the contracting county, municipal corporation, school district, assessment district, or special improvement district body or officer prior to execution by the contracting public officer or officers.

(2) In all public works contracts entered into under the provisions of this part, at least $1,000 of the contract price must be withheld at all times until the termination of the public works contract.

History: (1)En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; Sec. 41-701, R.C.M. 1947; (2)En. Sec. 3, Ch. 102, L. 1931; re-en. Sec. 3043.3, R.C.M. 1935; amd. Sec. 2, Ch. 43, L. 1961; Sec. 41-703, R.C.M. 1947; R.C.M. 1947, 41-701(part), 41-703(part); amd. Sec. 3, Ch. 522, L. 1997.

Cross-References

Bonding requirements, 18-2-201.

Executed versus executory contracts, 28-2-104.

What contracts must be in writing, 28-2-903.

18-2-405. Repealed. Sec. 8, Ch. 609, L. 1993.

History: En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; R.C.M. 1947, 41-701(part).

18-2-406. Posting wage scale and fringe benefits. The contractor performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.

History: En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; R.C.M. 1947, 41-701(2); amd. Sec. 2, Ch. 517, L. 2001.

Cross-References

Wages and wage protection, Title 39, ch. 3.

18-2-407. Forfeiture for failure to pay standard prevailing rate of wages. (1) Except as provided in 18-2-403, a contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing rate of wages as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the commissioner that there is insufficient money due to the contractor or the employer under the terms of the contract to cover penalties, the commissioner may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner on behalf of all the underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2.

History: En. Sec. 1, Ch. 102, L. 1931; re-en. Sec. 3043.1, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1955; amd. Sec. 1, Ch. 43, L. 1961; amd. Sec. 1, Ch. 265, L. 1969; amd. Sec. 1, Ch. 375, L. 1973; amd. Sec. 1, Ch. 531, L. 1975; R.C.M. 1947, 41-701(3); amd. Sec. 5, Ch. 554, L. 1989; amd. Sec. 4, Ch. 609, L. 1993; amd. Sec. 4, Ch. 90, L. 1995; amd. Sec. 13, Ch. 389, L. 1999; amd. Sec. 2, Ch. 467, L. 2003; amd. Sec. 14, Ch. 277, L. 2009.

Cross-References

Payment of wages, Title 39, ch. 3, part 2.

18-2-408. Renumbered 18-2-432. Code Commissioner, 1985.

18-2-409. Montana residents to be employed on state construction contracts. (1) On any state construction project funded by state or federal funds, except a project partially funded with federal aid money from the United States department of transportation or when residency preference laws are specifically prohibited by federal law and to which the state is

a signatory to the construction contract, each contractor shall ensure that at least 50% of the contractor's workers performing labor on the project are bona fide Montana residents, as defined in 18-2-401.

(2) For any contract awarded for a state construction project, except a project partially funded with federal aid money from the United States department of transportation or when residency preference laws are specifically prohibited by federal law, there must be inserted in the bid specification and the contract a provision, in language approved by the commissioner of labor and industry, implementing the requirements of subsection (1). The bid specification and the contract must provide that at least 50% of the workers on the project will be bona fide Montana residents. If due to a lack of qualified personnel each contractor cannot guarantee that at least 50% of the contractor's workers on the project will be Montana residents, the contract must provide that the percentage that the commissioner of labor and industry believes possible will be Montana residents.

(3) The commissioner of labor and industry shall enforce this section and investigate complaints of its violation and may adopt rules to implement this section.

History: En. Sec. 1, Ch. 549, L. 1985; amd. Sec. 1, Ch. 564, L. 2003.

18-2-410 reserved.

18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into not more than five prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section:

(a) the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108.

(b) zone pay must be determined by measuring the road miles in one way over the shortest practical maintained route from the dispatch city to the center of the job; and

(c) the rate of travel allowances must be computed by measuring the road miles in one direction over the shortest practical maintained route from the dispatch city or the employee's home, whichever is closest to the center of the job.

(6) As used in this section, "dispatch city" means the courthouse in either Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Miles City, Missoula, or Sidney that is closest to the center of the job and within the same prevailing wage district as the job.

History: En. Sec. 1, Ch. 561, L. 1987; amd. Sec. 5, Ch. 609, L. 1993; amd. Sec. 2, Ch. 538, L. 2005; amd. Sec. 15, Ch. 277, L. 2009; amd. Sec. 2, Ch. 373, L. 2013; amd. Sec. 1, Ch. 229, L. 2021.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

18-2-412. Method for payment of standard prevailing wage. (1) To fulfill the obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U.S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard

prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U.S. department of labor.

(3) A private contractor or subcontractor shall file a copy of the fringe benefit fund, plan, or program described in subsection (2) with the department.

History: En. Sec. 1, Ch. 609, L. 1993; amd. Sec. 16, Ch. 277, L. 2009.

18-2-413. Standard prevailing rate of wages for building construction services. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 37, chapter 45, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus zone pay, per diem, and travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) (a) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor's peak month of employment and the wages and fringe benefits paid for each craft, classification, or type of work.

(b) (i) In setting the prevailing wages from the survey for each craft, classification, or type of work, the department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving the same wage.

(ii) If the survey shows that at least 50% of the skilled workers are receiving the same wage, then the higher of the collective bargaining agreement rate or the surveyed rate is the prevailing wage for that craft, classification, or type of work.

(c) (i) In setting the prevailing fringe benefits from the survey for each craft, classification, or type of work, the department shall use a weighted average fringe benefit for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving fringe benefits pursuant to a collective bargaining agreement or pursuant to an employer's fringe benefit fund, plan, or program that meets the requirements of the Employment Retirement Income Security Act of 1974 or that is approved by the U.S. department of labor.

(ii) If the survey shows that at least 50% of the skilled workers are receiving fringe benefits pursuant to a collective bargaining agreement or pursuant to an employer's fringe benefit fund, plan, or program that meets the requirements of the Employment Retirement Income Security Act of 1974 or that is approved by the U.S. department of labor, the higher of fringe benefits received under collective bargaining agreements and employers' fringe benefit funds, plans, or programs is the prevailing fringe benefit for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to

determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

History: En. Sec. 1, Ch. 277, L. 2009; amd. Sec. 3, Ch. 373, L. 2013; amd. Sec. 9, Ch. 644, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 9, Ch. 644, L. 2025. Amendment effective January 1, 2026.

18-2-414. Standard prevailing rate of wages for heavy construction services and for highway construction services — definition. (1) The department shall establish the standard prevailing rate of wages for heavy construction services and for highway construction services annually.

(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may:

(a) conduct a survey of construction contractors registered under Title 37, chapter 45, who perform heavy construction services or highway construction services, electrical contractors licensed under Title 37, chapter 68, who perform commercial work, or plumbers licensed under Title 37, chapter 69, whose work is performed according to commercial building codes;

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under the federal Davis-Bacon Act, 29 CFR 1, et seq., for projects in Montana; or

(c) use, as provided by rule, a combination of surveyed rates, as provided in subsection (2)(a), and rates adopted by reference, as provided in subsection (2)(b).

(3) For the purposes of this section, the term "standard prevailing rate of wages for heavy construction services and for highway construction services" means wage rates, including fringe benefits plus zone pay, per diem, and travel allowances, if applicable, that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

History: En. Sec. 2, Ch. 277, L. 2009; amd. Sec. 4, Ch. 373, L. 2013; amd. Sec. 10, Ch. 644, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 10, Ch. 644, L. 2025. Amendment effective January 1, 2026.

18-2-415. Standard prevailing rate of wages for nonconstruction services — survey. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for nonconstruction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established under 18-2-411.

(3) (a) The department shall survey those employers that the department determines provide nonconstruction services in Montana in fulfillment of public works contracts.

(b) The department may survey employers that request to be included in the survey related to the nonconstruction services standard prevailing rate of wages or employers whose names and addresses are supplied by a political subdivision of the state as employers who have submitted bona fide bids or responses to requests for proposals for public works contracts for nonconstruction services.

(4) If the department does not survey an employer who is required to be surveyed under subsection (3)(a) or eligible to be surveyed under subsection (3)(b), the resulting survey and the ratesetting process remain valid.

(5) The survey must include:

(a) those wages, including fringe benefits and travel allowances if applicable, that are paid in the applicable district by other employers for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part; and

(b) information pertaining to the number of workers employed in the employer's peak month of employment.

(6) In setting the standard prevailing rate of wages for nonconstruction services from the survey for each craft, classification, or type of work, the department shall use the weighted average wage for each craft, classification, or type of work, except in cases in which the survey shows that at least 50% of the workers are receiving the same wage. If the survey shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work.

(7) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the standard prevailing rate of wages may be established by the use of other information or an alternate methodology as provided in subsection (8).

(8) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(9) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

History: En. Sec. 3, Ch. 277, L. 2009.

18-2-416. Wages paid to registered apprentices. (1) (a) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract.

(b) An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(c) An apprenticeship's rate of wages starts at the date of registration with the sponsor.

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.

History: En. Sec. 4, Ch. 277, L. 2009; amd. Sec. 1, Ch. 114, L. 2021.

18-2-417. Wage rate adjustments for multiyear contracts. (1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

History: En. Sec. 5, Ch. 277, L. 2009.

18-2-418. Wage rates based on project classification. (1) The contracting agency shall determine, based on the preponderance of labor hours to be worked, whether the public works construction services project is classified as a highway construction project, a heavy construction project, or a building construction project.

(2) Once the project has been classified, employees in each trade classification who are working on that project must be paid at the rate for that project classification.

History: En. Sec. 5, Ch. 373, L. 2013.

18-2-419. Zone pay and per diem. If there is not sufficient data reported to establish zone pay or per diem for a trade classification, the department may establish a zone pay or a per diem amount that reasonably approximates an applicable average zone pay or per diem rate that is payable for the trade classification.

History: En. Sec. 6, Ch. 373, L. 2013.

18-2-420 reserved.

18-2-421. Notice. When a public works project is accepted by the public contracting agency, a notice of acceptance and the completion date of the project must be sent to the department. However, in the case of public works contracts that amount to $50,000 or less in cost, the notice of acceptance and the completion date of the project is not required unless the department requests that information. The 90-day limitation for filing an action in district court, as provided in 18-2-407, does not begin until the public contracting agency notifies the department of its acceptance of the public works project.

History: En. Sec. 3, Ch. 139, L. 1981; amd. Sec. 4, Ch. 522, L. 1997.

18-2-422. Bid specification and public works contract to contain standard prevailing wage rate and payroll record notification. All public works contracts and the bid specifications for those contracts must contain:

(1) a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, that the contractors and employers shall pay during construction of the project;

(2) a provision requiring each contractor and employer to maintain payroll records in a manner readily capable of being certified for submission under 18-2-423, for not less than 3 years after the contractor's or employer's completion of work on the project; and

(3) a provision requiring each contractor to post a statement of all wages and fringe benefits in compliance with 18-2-423.

History: En. Sec. 4, Ch. 139, L. 1981; amd. Sec. 5, Ch. 522, L. 1997; amd. Sec. 3, Ch. 517, L. 2001.

18-2-423. Submission of payroll records. If a complaint is filed with the department alleging noncompliance with 18-2-422, the department may require the project to submit to it certified copies of the payroll records for workers employed on that project. A contractor or a subcontractor shall pay employees receiving an hourly wage on a weekly basis. If a wage violation complaint is filed with the department, the contractor or subcontractor shall provide the employee's payroll records to the department within 5 days of receiving the payroll request from the department.

History: En. Sec. 5, Ch. 139, L. 1981; amd. Sec. 6, Ch. 609, L. 1993.

18-2-424. Enforcement. If a contractor or a subcontractor refuses to submit payroll records requested by the department pursuant to 18-2-423, the commissioner or the commissioner's authorized representative may issue subpoenas compelling the production of those records.

History: En. Sec. 6, Ch. 139, L. 1981; amd. Sec. 225, Ch. 56, L. 2009.

18-2-425. Prohibition — project labor agreement. (1) Except as otherwise provided in this chapter, the state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works execute or otherwise become a party to any project labor agreement, collective bargaining agreement, prehire agreement, or other agreement with employees, their representatives, or any labor organization as a condition of bidding, negotiating, being awarded, or performing work on a public works contract.

(2) For the purposes of this section, "public works" means:

(a) a building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, or other facility owned or to be contracted for by the state or a political subdivision and that is paid for in whole or in part with tax revenue paid by residents of the state; or

(b) any other construction service or nonconstruction service as defined in 18-2-401.

History: En. Sec. 1, Ch. 540, L. 1999.

18-2-426 through 18-2-430 reserved.

18-2-431. Rulemaking authority. The commissioner may adopt rules necessary to implement this part.

History: En. Sec. 1, Ch. 234, L. 1985.

Cross-References

Adoption and publication of rules — Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

18-2-432. Penalty for violation. (1) (a) If a person, firm, or corporation fails to comply with the provisions of this part, the state, county, municipality, school district, or officer of a political subdivision that executed the public works contract shall retain $1,000 of the contract price as liquidated damages for the violation of the terms of the public works contract, and the money must be credited to the proper funds of the state, county, municipality, school district, or political subdivision.

(b) If a person, firm, or corporation fails to comply with the provisions of this part due to gross negligence, as determined by the commissioner, the commissioner may retain up to an additional $10,000 above the amount provided for in subsection (1)(a) as a penalty for the violation of the terms of the public works contract. The money retained pursuant to this subsection (1)(b) must be credited to the proper funds of the state, county, municipality, school district, or other political subdivision.

(2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any public works contracts or subcontracts that are subject to the provisions of this chapter.

(3) Whenever an action has been instituted in a district court in this state against any person, firm, or corporation for the violation of this part, the court in which the action is pending is authorized to issue an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with the state, county, municipality, school district, or political subdivision, pending the final determination of the instituted action.

History: En. Sec. 3, Ch. 102, L. 1931; re-en. Sec. 3043.3, R.C.M. 1935; amd. Sec. 2, Ch. 43, L. 1961; R.C.M. 1947, 41-703(part); Sec. 18-2-408, MCA 1983; redes. 18-2-432 by Code Commissioner, 1985; amd. Sec. 7, Ch. 609, L. 1993; amd. Sec. 6, Ch. 522, L. 1997; amd. Sec. 1, Ch. 78, L. 1999.

Cross-References

Damages, Title 27, ch. 1, part 2.

Injunctions, Title 27, ch. 19.

Part 5
Alternative Project Delivery Contracts

18-2-501. *(Temporary)* **Definitions.** As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Alternative project delivery contract" means a construction management contract, a general contractor construction management contract, a design-build contract, or a comprehensive agreement.

(2) "Best value" means a procurement in which the decision is based on the primary objective of meeting the specific goals and best interests of the state agency or governing body, including but not limited to qualifications, technical, design, pricing, financing viability, and schedule. This selection must be based on criteria that have been communicated to the proposers in the final request for proposals.

(3) "Comprehensive agreement" means an agreement setting forth the firm fixed price, duration, risk transfer, and all other commercial and technical terms to be adhered to with respect to an awarded eligible project utilizing innovative financing delivery with a private party.

(4) "Construction management contract" means a contract in which the contractor acts as the public owner's construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion.

(5) "Contractor" has the meaning provided in 18-4-123.

(6) "Design-build contract" means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

(7) "Eligible project" means any asset owned by a state agency or governing body, except for toll roads, toll bridges, and any broadband infrastructure projects.

(8) "General contractor construction management contract" means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(9) "Governing body" means:

(a) the legislative authority of:

(i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(ii) a school district established pursuant to Title 20; or

(iii) an airport authority established pursuant to Title 67, chapter 11;

(b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13, parts 22 and 23; or

(c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners or trustees of a fire service area established pursuant to 7-33-2401.

(10) "Innovative financing delivery" means a project delivery method whereby a state agency or a governing body procures an eligible project that includes private financing and any combination of design, build, operate, or maintain with a private party. In doing so, the state agency or governing body may pay for the development of the eligible project with public funds appropriated to that eligible project, including fees to compensate the private party for the operation and maintenance of the project for the defined term.

(11) "Project" means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(12) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, and 20-9-204 or the provision of public notice pursuant to 18-2-301.

(13) "Request for proposals" means the final solicitation document requesting detailed proposals from short-listed, qualified proposers for evaluation and selection.

(14) "State agency" has the meaning provided in 2-2-102, except that the department of transportation, provided for in 2-15-2501, is not considered a state agency. *(Terminates July 1, 2033—sec. 6, Ch. 418, L. 2023.)*

18-2-501. *(Effective July 2, 2033)* **Definitions.** As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Alternative project delivery contract" means a construction management contract, a general contractor construction management contract, or a design-build contract.

(2) "Construction management contract" means a contract in which the contractor acts as the public owner's construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion.

(3) "Contractor" has the meaning provided in 18-4-123.

(4) "Design-build contract" means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

(5) "General contractor construction management contract" means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(6) "Governing body" means:

(a) the legislative authority of:

(i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(ii) a school district established pursuant to Title 20; or

(iii) an airport authority established pursuant to Title 67, chapter 11;

(b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13, parts 22 and 23; or

(c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners or trustees of a fire service area established pursuant to 7-33-2401.

(7) "Project" means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, and 20-9-204 or the provision of public notice pursuant to 18-2-301.

(9) "State agency" has the meaning provided in 2-2-102, except that the department of transportation, provided for in 2-15-2501, is not considered a state agency.

History: En. Sec. 1, Ch. 574, L. 2005; amd. Sec. 1, Ch. 29, L. 2009; amd. Sec. 2, Ch. 54, L. 2017; amd. Sec. 1, Ch. 147, L. 2017; amd. Sec. 2, Ch. 111, L. 2021; amd. Sec. 8, Ch. 96, L. 2023; amd. Sec. 1, Ch. 418, L. 2023.

18-2-502. *(Temporary)* **Alternative project delivery contract — authority — criteria.** (1) Subject to the provisions of this part, a state agency or a governing body may use an alternative project delivery contract. A state agency or governing body that uses an alternative project delivery contract shall:

(a) demonstrate that the state agency or the governing body has or will have knowledgeable staff or consultants who have the capacity to manage an alternative project delivery contract;

(b) clearly describe the manner in which:

(i) the alternative project delivery contract award process will be conducted; and

(ii) subcontractors and suppliers will be selected.

(2) Prior to awarding an alternative project delivery contract, the state agency or the governing body shall determine that the proposal meets at least two of the sets of criteria described in subsections (2)(a) through (2)(c) and the provisions of subsection (3). To make the determination, the state agency or the governing body shall make a detailed written finding that:

(a) the project has significant schedule ramifications and using the alternative project delivery contract is necessary to meet critical deadlines by shortening the duration of construction. Factors that the state agency or the governing body may consider in making its findings include, but are not limited to:

(i) operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early project completion;

(ii) demonstrable public benefits that result from less time for construction; or

(iii) less or a shorter duration of disruption to the public facility.

(b) by using an alternative project delivery contract, the design process will contribute to significant cost savings. Significant cost savings that may justify an alternative project delivery contract may derive from but are not limited to value engineering, building systems analysis, life cycle analysis, and construction planning.

(c) the project presents significant technical complexities that necessitate the use of an alternative delivery project contract.

(3) The state agency or the governing body shall make a detailed written finding that using an alternative project delivery contract will not:

(a) encourage favoritism or bias in awarding the contract; or

(b) substantially diminish competition for the contract.

(4) In addition to meeting the criteria set forth in subsections (1) through (3), a state agency or governing body that utilizes a comprehensive agreement must, for each project:

(a) demonstrate a public purpose; and

(b) demonstrate that the innovative financing delivery favors the innovative financing contract method over other available procurement and alternative project delivery methods.*(Terminates July 1, 2033—sec. 6, Ch. 418, L. 2023.)*

18-2-502. *(Effective July 2, 2033)* **Alternative project delivery contract — authority — criteria.** (1) Subject to the provisions of this part, a state agency or a governing body may use an alternative project delivery contract. A state agency or governing body that uses an alternative project delivery contract shall:

(a) demonstrate that the state agency or the governing body has or will have knowledgeable staff or consultants who have the capacity to manage an alternative project delivery contract;

(b) clearly describe the manner in which:

(i) the alternative project delivery contract award process will be conducted; and

(ii) subcontractors and suppliers will be selected.

(2) Prior to awarding an alternative project delivery contract, the state agency or the governing body shall determine that the proposal meets at least two of the sets of criteria described in subsections (2)(a) through (2)(c) and the provisions of subsection (3). To make the determination, the state agency or the governing body shall make a detailed written finding that:

(a) the project has significant schedule ramifications and using the alternative project delivery contract is necessary to meet critical deadlines by shortening the duration of construction. Factors that the state agency or the governing body may consider in making its findings include, but are not limited to:

(i) operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early project completion;

(ii) demonstrable public benefits that result from less time for construction; or

(iii) less or a shorter duration of disruption to the public facility.

(b) by using an alternative project delivery contract, the design process will contribute to significant cost savings. Significant cost savings that may justify an alternative project delivery contract may derive from but are not limited to value engineering, building systems analysis, life cycle analysis, and construction planning.

(c) the project presents significant technical complexities that necessitate the use of an alternative delivery project contract.

(3) The state agency or the governing body shall make a detailed written finding that using an alternative project delivery contract will not:

(a) encourage favoritism or bias in awarding the contract; or

(b) substantially diminish competition for the contract.

History: En. Sec. 2, Ch. 574, L. 2005; amd. Sec. 2, Ch. 418, L. 2023.

18-2-503. *(Temporary)* **Alternative project delivery contract — award criteria.** (1) (a) Whenever a state agency or a governing body determines, pursuant to 18-2-502, that an alternative project delivery contract is justifiable, the state agency or the governing body shall publish a request for qualifications.

(b) After evaluating the responses to the request for qualifications, a request for proposals must be sent to each respondent that meets the qualification criteria specified in the request for qualifications. The request for proposals must clearly describe the project, the state agency's or the governing body's needs with respect to the project, the requirements for submitting a proposal, criteria that will be used to evaluate proposals, and any other factors, including any weighting, that will be used to award the alternative project delivery contract.

(2) The state agency's or the governing body's decision to award an alternative project delivery contract must be based, at a minimum, on:

(a) the applicant's:

(i) history and experience with projects similar to the project under consideration;

(ii) financial health;

(iii) staff or workforce that is proposed to be committed to the project;

(iv) approach to the project; and

(v) project costs; and

(b) any additional criteria or factors that reflect the project's characteristics, complexities, or goals.

(3) Under any contract awarded pursuant to this part, architectural services must be performed by an architect, as defined in 37-65-102, and engineering services must be performed by a professional engineer, as defined in 37-67-101.

(4) At the conclusion of the selection process, the state agency or the governing body shall state and document in writing the reasons for selecting the contractor that was awarded the contract. The documentation must be provided to all applicants and to anyone else, upon request.

(5) A state agency or the governing body may compensate qualified unsuccessful respondents to the request for proposal with a designated stipend for the ownership of the work product in the unsuccessful proposal and partial reimbursement for costs incurred in developing and submitting a proposal, provided that all unsuccessful applicants are treated equitably.

(6) When utilizing an innovative financing delivery option under this part, a state agency or the governing body shall follow the applicable procurement guidelines, including all applicable rules and law regarding competitive public procurement required under Montana law.

(7) When utilizing an innovative financing delivery option under this part, a state agency or the governing body shall, prior to issuing a request for proposals, establish an evaluation and selection process, including identifying the individuals who will perform the evaluation and selection. The state agency or the governing body shall endeavor to utilize individuals in the evaluation and selection process who have expertise in the subject matter.

(8) Awarding of a comprehensive agreement must be based on a best value analysis.

(9) At a minimum, a solicited proposal under an innovative financing delivery option must include the following:

(a) an analysis of the costs, benefits, and risk transfers resulting from the innovative financing delivery;

(b) a fixed fee price for the entirety of the comprehensive agreement, inclusive of design, construction, financing, operation, or maintenance, as applicable, and reflecting all risk transfer set forth in the terms of the final request for proposals;

(c) a detailed schedule and construction plans;

(d) a detailed financing plan and financial model for the lifetime of the comprehensive agreement, including any public funding or milestone payments during construction;

(e) a list of known utilities and rights-of-way that will be impacted by the project;

(f) a list of permits and governmental approvals required for the project; and

(g) a plan for utility relocation and right-of-way acquisition to the extent required by the final request for proposals.

(10) In addition to the provisions set forth in this part, comprehensive agreements may not:

(a) violate public construction contract provisions provided for in Title 18, chapter 2, part 4; or

(b) transfer ownership of a public asset to a private party.

(11) If operation and maintenance of an existing facility subject to an innovative financing delivery contract under this section is performed by employees covered by a collective bargaining agreement prior to becoming an eligible project for innovative financing delivery, the employees performing operation and maintenance of the completed facility must also be covered by a collective bargaining agreement.*(Terminates July 1, 2033—sec. 6, Ch. 418, L. 2023.)*

18-2-503. *(Effective July 2, 2033)* **Alternative project delivery contract — award criteria.** (1) (a) Whenever a state agency or a governing body determines, pursuant to 18-2-502,

that an alternative project delivery contract is justifiable, the state agency or the governing body shall publish a request for qualifications.

(b) After evaluating the responses to the request for qualifications, a request for proposals must be sent to each respondent that meets the qualification criteria specified in the request for qualifications. The request for proposals must clearly describe the project, the state agency's or the governing body's needs with respect to the project, the requirements for submitting a proposal, criteria that will be used to evaluate proposals, and any other factors, including any weighting, that will be used to award the alternative project delivery contract.

(2) The state agency's or the governing body's decision to award an alternative project delivery contract must be based, at a minimum, on:

(a) the applicant's:

(i) history and experience with projects similar to the project under consideration;

(ii) financial health;

(iii) staff or workforce that is proposed to be committed to the project;

(iv) approach to the project; and

(v) project costs; and

(b) any additional criteria or factors that reflect the project's characteristics, complexities, or goals.

(3) Under any contract awarded pursuant to this part, architectural services must be performed by an architect, as defined in 37-65-102, and engineering services must be performed by a professional engineer, as defined in 37-67-101.

(4) At the conclusion of the selection process, the state agency or the governing body shall state and document in writing the reasons for selecting the contractor that was awarded the contract. The documentation must be provided to all applicants and to anyone else, upon request.

(5) A state agency or the governing body may compensate unsuccessful applicants for costs incurred in developing and submitting a proposal, provided that all unsuccessful applicants are treated equitably.

History: **En. Sec. 3, Ch. 574, L. 2005; amd. Sec. 3, Ch. 418, L. 2023.**

CHAPTER 3
STATE BUILDING LEASES

Part 1 — General Provisions

18-3-101. Authority to lease with option to purchase.
18-3-102. Repealed.
18-3-103. Repealed.
18-3-104. Repealed.
18-3-105. Location of building.
18-3-106. Security pledge.
18-3-107. Repealed.
18-3-108 and 18-3-109 reserved.
18-3-110. Requests for proposals.
18-3-111. Exemption from construction contract requirements.

Chapter Cross-References

Illegal interest in contracts, 45-7-401.

Statewide building construction standards, Title 50, ch. 60.

Part 1
General Provisions

Part Cross-References

State debt — limitations, Art. VIII, sec. 8, Mont. Const.

18-3-101. Authority to lease with option to purchase. (1) Except as provided in subsection (2), when authorized by a vote of two-thirds of the members of each house of the legislature, the department of administration may, as part of the long-range building program, enter into a lease contract that provides an option to purchase a building to be used by the state or any department of state government.

(2) A vote of two-thirds of the members of each house of the legislature and inclusion in the long-range building program is not required for a lease contract that provides an option to purchase if the building will be used for colocated laboratory space that will include facilities that conduct animal health testing for pathogens that could impact public health.

History: En. 82-3315.1 by Sec. 1, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.1; amd. Sec. 1, Ch. 455, L. 1997; amd. Sec. 1, Ch. 202, L. 2019.

Cross-References

Long-range building program bonds, Title 17, ch. 5, part 4.
General powers and duties of Department of Administration, 18-2-105.

18-3-102. Repealed. Sec. 8, Ch. 455, L. 1997.

History: En. 82-3315.4 by Sec. 4, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.4.

18-3-103. Repealed. Sec. 8, Ch. 455, L. 1997.

History: En. 82-3315.7 by Sec. 7, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.7.

18-3-104. Repealed. Sec. 8, Ch. 455, L. 1997.

History: En. 82-3315.5 by Sec. 5, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.5.

18-3-105. Location of building. A building authorized pursuant to 18-3-101 must be located as determined by the terms of the request for proposals. If a contract entered into pursuant to this chapter requires the sale or lease of any interest in state lands, the contract must have prior approval of the board of land commissioners.

History: En. 82-3315.2 by Sec. 2, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.2; amd. Sec. 2, Ch. 455, L. 1997.

Cross-References

Board of Land Commissioners — power to sell, lease, or exchange certain state trust lands, 77-1-204.

18-3-106. Security pledge. To insure an adequate security provision for the lessor, the full faith and credit and taxing powers of the state of Montana are pledged in the amount necessary for the payment of rent incurred pursuant to a contract authorized by this part.

History: En. 82-3315.3 by Sec. 3, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.3.

Cross-References

Tax power inalienable, Art. VIII, sec. 2, Mont. Const.
Taxation, Title 15.

18-3-107. Repealed. Sec. 8, Ch. 455, L. 1997.

History: En. 82-3315.6 by Sec. 6, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.6.

18-3-108 and 18-3-109 reserved.

18-3-110. Requests for proposals. (1) The department, with the cooperation of the departments that will occupy the rental property, shall develop a request for proposals defining the state's program and building specification requirements. A request for proposals must be administered in accordance with 18-4-304(3) through (7).

(2) For projects valued at less than $2 million, the departments may develop the request for proposals. For projects valued at $2 million or more, the departments shall contract with a licensed architect or engineer selected in accordance with 18-2-112 for the development of the request for proposals.

(3) A successful proposer, general contractor, or subcontractor engaged in construction under this part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased property.

History: En. Sec. 3, Ch. 455, L. 1997; amd. Sec. 47, Ch. 51, L. 1999; amd. Sec. 1, Ch. 489, L. 2023.

18-3-111. Exemption from construction contract requirements. Except as provided in 18-3-110, a contract provided for in this chapter is not subject to the provisions of Title 18, chapter 2.

History: En. Sec. 4, Ch. 455, L. 1997.

CHAPTER 4
MONTANA PROCUREMENT ACT

Part 1 — General Provisions

18-4-101. Repealed.
18-4-102. Repealed.

18-4-103. Repealed.
18-4-104. Renumbered 18-4-133.
18-4-105. Renumbered 18-4-141.
18-4-106 through 18-4-110 reserved.
18-4-111. Renumbered 2-17-501.
18-4-112 through 18-4-120 reserved.
18-4-121. Short title.
18-4-122. Purpose.
18-4-123. Definitions.
18-4-124. Local government adoption of procurement provisions — alternative project delivery contracts.
18-4-125. Collection of data concerning public procurement.
18-4-126. Public access to procurement information — records — retention.
18-4-127. Procurement of food products — rulemaking — reporting.
18-4-128. Report to interim committee.
18-4-129 and 18-4-130 reserved.
18-4-131. Repealed.
18-4-132. Application.
18-4-133. Purchases exempt from general requirements.
18-4-134 through 18-4-140 reserved.
18-4-141. Contract transfers and collusion prohibited — violations and penalty.

Part 2 — Duties of Department

18-4-201. Repealed.
18-4-202. Repealed.
18-4-203. Repealed.
18-4-204 through 18-4-210 reserved.
18-4-211. Repealed.
18-4-212. Repealed.
18-4-213. Repealed.
18-4-214. Repealed.
18-4-215 through 18-4-220 reserved.
18-4-221. General procurement authority and duties of department — rules.
18-4-222. Delegation of authority by department.
18-4-223. State procurement rules — delegation — existing rights.
18-4-224. Contract clauses — rules.
18-4-225. Repealed.
18-4-226. Surplus supply — rules.
18-4-227. Procurement and term contract rebate account — funding — use.
18-4-228 through 18-4-230 reserved.
18-4-231. Definition of specification.
18-4-232. Specifications — rules.
18-4-233. Using agencies' advice.
18-4-234. Competition.
18-4-235 through 18-4-240 reserved.
18-4-241. Authority to remove or suspend vendor.
18-4-242. Exclusive remedies for unlawful solicitation or award.

Part 3 — Procurement Procedure

18-4-301. Definitions.
18-4-302. Methods of source selection — authorization for alternative procurement methods.
18-4-303. Competitive sealed bidding.
18-4-304. Competitive sealed proposals.
18-4-305. Small purchases and limited solicitations.
18-4-306. Sole source procurement — records.
18-4-307. Cancellation of invitations for bids or requests for proposals.
18-4-308. Nonresponsibility of bidders and offerors.
18-4-309. Prequalification of suppliers.
18-4-310. Types of contracts.
18-4-311. Repealed.
18-4-312. Bid and contract performance security.
18-4-313. Contracts — terms, extensions, and time limits.
18-4-314. Reporting of anticompetitive practices.

Part 4 — Cooperative Purchasing

18-4-401. Definitions.
18-4-402. Cooperative purchasing authorized.
18-4-403. Sale, acquisition, or use of supplies by a public procurement unit.
18-4-404. Cooperative use of supplies or services.
18-4-405. Joint use of facilities.
18-4-406. Information and services — fees.
18-4-407. Review of procurement requirements.

Chapter Cross-References

Officer not to be purchaser in sale, 2-2-202.
Property management, Title 2, ch. 17.
Information technology, Title 2, ch. 17, part 5.
Audit services — legislative, 5-13-411.
Purchase of rural improvement districts, 7-12-2131 through 7-12-2137.
Encumbrance of purchase orders, 17-7-303.
Failure to make timely payment — interest assessment on amounts due, 17-8-242.
State purchasing not affected, 18-2-315.
Highway Patrol equipment, 44-1-303.
Attorney General authorized to purchase equipment for criminal justice information network, Title 44, ch. 2, part 3.
Gifts to public servants having discretionary function in contract letting, 45-7-104.
Illegal interests in contracts, 45-7-401.
Freedom from discrimination in public contracts, 49-3-207.
Prison industries — products, 53-30-131, 53-30-133.

Part 1
General Provisions

18-4-101. Repealed. Sec. 53, Ch. 519, L. 1983.

History: (1), (2)En. 82-1902.1 by Sec. 8, Ch. 97, L. 1977; Sec. 82-1902.1, R.C.M. 1947; (3)En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; Sec. 82-1917, R.C.M. 1947; R.C.M. 1947, 82-1902.1, 82-1917(part); amd. Sec. 1, Ch. 597, L. 1979.

18-4-102. Repealed. Sec. 53, Ch. 519, L. 1983.

History: (1), (2)En. Sec. 8, Ch. 66, L. 1923; re-en. Sec. 293.8, R.C.M. 1935; amd. Sec. 2, Ch. 301, L. 1971; amd. Sec. 1, Ch. 496, L. 1973; amd. Sec. 9, Ch. 242, L. 1974; amd. Sec. 73, Ch. 326, L. 1974; Sec. 82-1918, R.C.M. 1947; (3)En. Sec. 11, Ch. 66, L. 1923; re-en. Sec. 293.11, R.C.M. 1935; amd. Sec. 76, Ch. 326, L. 1974; Sec. 82-1921, R.C.M. 1947; R.C.M. 1947, 82-1918(1), 82-1921(part); amd. Sec. 2, Ch. 597, L. 1979.

18-4-103. Repealed. Sec. 2, Ch. 175, L. 1979.

History: En. 82-1915.1 by Sec. 70, Ch. 326, L. 1974; R.C.M. 1947, 82-1915.1.

18-4-104. Renumbered 18-4-133. Code Commissioner, 1983.

18-4-105. Renumbered 18-4-141. Code Commissioner, 1983.

18-4-106 through 18-4-110 reserved.

18-4-111. Renumbered 2-17-501. Code Commissioner, 1983.

18-4-112 through 18-4-120 reserved.

18-4-121. Short title. This chapter may be cited as the "Montana Procurement Act".

History: En. Sec. 1, Ch. 519, L. 1983.

18-4-122. Purpose. The underlying purposes and policies of this chapter are to:

(1) simplify, clarify, and modernize the law governing procurement by the state of Montana;

(2) permit the continued development of procurement policies and practices;

(3) make as consistent as possible the procurement laws among the various jurisdictions;

(4) provide for increased public confidence in the procedures followed in public procurement;

(5) ensure the fair and equitable treatment of all persons who deal with the procurement system of the state;

(6) provide increased economy in state procurement activities and maximize to the fullest extent practicable the purchasing value of public funds of the state;

(7) foster effective, broad-based competition within the free enterprise system;

(8) provide safeguards for the maintenance of a procurement system of quality and integrity; and

(9) provide the exclusive remedies for unlawful bid solicitations or contract awards.

History: En. Sec. 2, Ch. 519, L. 1983; amd. Sec. 2, Ch. 443, L. 1997.

18-4-123. Definitions. In this chapter, unless the context clearly requires otherwise or a different meaning is prescribed for a particular section, the following definitions apply:

(1) "Business" means a corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity.

(2) "Change order" means a written order, signed by an authorized department representative, directing the contractor to make changes that the changes clause of the contract authorizes the department to order without the consent of the contractor.

(3) "Contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies or services.

(4) "Contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract.

(5) "Contractor" means a person having a contract with a governmental body.

(6) "Data" means recorded information, regardless of form or characteristic.

(7) "Department" means the department of administration.

(8) "Designee" means an authorized representative of a person holding a superior position.

(9) "Director" means the director of the department of administration.

(10) "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any noncompensated individual performing personal services for a governmental body.

(11) "Governmental body" means a department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity, instrumentality, or official of the executive, legislative, or judicial branch of this state, including the board of regents and the Montana university system.

(12) (a) "Grant" means the furnishing by the federal government of assistance, whether financial or otherwise, to a person or agency to support a program authorized by law.

(b) Grant does not include an award whose primary purpose is to procure an end product, whether in the form of supplies or services. A contract resulting from an award is not a grant but a procurement contract.

(13) "Person" means any business, individual, union, committee, club, other organization, or group of individuals.

(14) (a) "Printing" means the reproduction of an image from a printing surface generally made by a contact impression that causes a transfer of ink or the reproduction of an impression by a photographic process and includes graphic arts, typesetting, binding, and other operations necessary to produce a finished printed product.

(b) Printing does not include rebinding or repair by a library or an office, department, board, or commission of books, journals, pamphlets, magazines, and literary articles held as a part of its library collection.

(15) (a) "Procurement" means acquisition with or without cost, buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services. The term includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(b) Procurement does not include the acquiring of supplies or services by gift.

(16) "Procurement officer" means any person authorized to enter into and administer contracts and make written determinations with respect to contracts. The term includes an authorized representative acting within the limits of the representative's authority.

(17) "Purchasing agency" means any governmental body, other than the department, that is authorized by this chapter or its implementing rules or by way of delegation from the director to enter into contracts.

(18) (a) "Services" means the furnishing of labor, time, or effort by a contractor.

(b) Services does not include employment agreements or collective bargaining agreements, the provision of human services administered by the department of public health and human services, or services related to construction contracts.

(19) "Supplies" means all property except as otherwise provided by law, including but not limited to equipment, materials, printing, and commodities, and excluding land or any interest in land.

(20) "Using agency" means any governmental body of the state that uses any supplies or services procured under this chapter.

(21) "Vendor" means a person who offers or may offer supplies or services to a public agency.

History: En. Sec. 3, Ch. 519, L. 1983; amd. Sec. 3, Ch. 443, L. 1997; amd. Sec. 14, Ch. 181, L. 2001.

18-4-124. Local government adoption of procurement provisions — alternative project delivery contracts. (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

(2) A governing body, as defined in 18-2-501, may adopt the provisions of Title 18, chapter 2, part 5, and use an alternative project delivery contract.

History: En. Sec. 45, Ch. 519, L. 1983; amd. Sec. 8, Ch. 574, L. 2005.

18-4-125. Collection of data concerning public procurement. All using agencies shall cooperate with the department in the preparation of statistical data concerning the procurement, usage, and disposition of all supplies and services, and the department may employ trained personnel as necessary to carry out this function. All using agencies shall furnish such reports as the department may require concerning usage, needs, and stocks on hand, and the department may prescribe forms to be used by the using agencies in requisitioning, ordering, and reporting of supplies and services.

History: En. Sec. 11, Ch. 519, L. 1983.

18-4-126. Public access to procurement information — records — retention. (1) Procurement information is a public record and must be available to the public as provided in 2-6-1003, 18-4-303, and 18-4-304.

(2) All procurement records must be retained, managed, and disposed of in accordance with the provisions of Title 2, chapter 6, parts 10 and 11.

(3) Written determinations required by this chapter must be retained in the appropriate official contract file of the department or the purchasing agency administering the procurement in accordance with Title 2, chapter 6, parts 10 and 11.

(4) The department shall manage a website to improve the public's access to procurement information and to increase the transparency of the financial transactions and payments made by a purchasing agency. The department shall include information about each payment made by the department or a purchasing agency, including the name of the contractor, the purpose for which the payment was made, and the amount of the payment.

History: En. Secs. 5, 26, Ch. 519, L. 1983; amd. Sec. 4, Ch. 443, L. 1997; amd. Sec. 1, Ch. 289, L. 2005; amd. Sec. 44, Ch. 348, L. 2015; amd. Sec. 1, Ch. 628, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 628, L. 2025. Amendment effective October 1, 2025.

Cross-References

Right of participation, Art. II, sec. 8, Mont. Const.

Right to know, Art. II, sec. 9, Mont. Const.

Public participation in governmental operations, Title 2, ch. 3.

18-4-127. Procurement of food products — rulemaking — reporting. (1) Food products produced in the state may be procured either by standard procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:

(a) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(b) a vender is able to supply Montana-produced food products in sufficient quantity; and

(c) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(2) The department shall adopt any rules necessary to administer the optional procurement exception and reporting requirement established in this section.

(3) Except as provided in subsection (5), all contracts for the procurement of food products by a governmental body with a total contract value of $100,000 or more that are entered into or renewed after June 30, 2025, must include a provision that requires the vendor to provide the report described in subsection (4). A vendor shall submit its report annually to the governmental body by the date prescribed by the department.

(4) For the purpose of complying with subsection (3), for the year preceding the date set by the department, a vendor shall report:

(a) the total dollar value of food products purchased by the governmental body;

(b) the total dollar value of Montana-produced food products purchased by the governmental body; and

(c) to the extent the vendor can provide this type of information, the total dollar value of Montana-produced food products purchased by the governmental body in each of the following categories:

(i) meat, including but not limited to beef, poultry, pork, fish, sheep, and goat;

(ii) produce as defined in 80-3-302;

(iii) alcoholic beverages, as defined in 16-1-106;

(iv) nonalcoholic beverages and drinks;

(v) dairy products and eggs;

(vi) pulse crops as defined in 15-6-220; and

(vii) grain as defined in 80-4-402.

(5) (a) Contracts for alcoholic beverage purchases made by the department of revenue pursuant to Title 16 are not subject to the contractual provision requirement in subsection (3).

(b) The vendors of alcoholic beverages purchased by the department of revenue pursuant to Title 16 are not subject to the reporting requirements in subsections (3) and (4).

(6) As used in this section, the following definitions apply:

(a) "Food" means articles normally used by humans as food or drink, including alcoholic and nonalcoholic beverages and articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured.

History: En. Sec. 2, Ch. 375, L. 2025.

Compiler's Comments

Effective Date: Section 4, Ch. 375, L. 2025, provided: "[This act] is effective July 1, 2025."

18-4-128. *(Temporary)* **Report to interim committee.** (1) By March 1, June 1, September 1, and December 1 of each year, the department shall provide a written report to the legislative finance committee in accordance with 5-11-210 containing the information listed in subsection (2) that is related to procurement solicitations and contracts and is available to the department in the department's information technology resources.

(2) The report must include:

(a) for a procurement solicitation for a contract that the department anticipates will cost at least $200,000 over the life of the contract:

(i) the name of each purchasing agency issuing the solicitation;

(ii) what the purchasing agency intends to procure through the solicitation;

(iii) the closing date of the solicitation; and

(iv) any other information the department finds relevant to the proposal;

(b) for a contract executed with or without a solicitation that is expected to cost $200,000 or more over the life of the contract:

(i) the names of the purchasing agency; and

(ii) the contractor and the date of execution; and

(c) for a contract modification that causes the total value of a contract to exceed $200,000 over the life of the contract:

(i) the names of the purchasing agency; and

(ii) the contractor and the date of execution.

(3) By February 15, May 15, August 15, and November 15 of each year, each governmental body shall submit the information listed in subsection (2) related to procurement solicitations and contracts to the department using the information technology resources specified by the department. *(Terminates June 30, 2026—sec. 5, Ch. 660, L. 2025.)*

18-4-128. *(Effective July 1, 2026)* **Report to interim committee.** (1) By March 1, June 1, September 1, and December 1 of each year, the department shall provide a written report to the legislative finance committee in accordance with 5-11-210 containing the information listed in subsection (2) related to procurement solicitations and contracts.

(2) The report must include:

(a) for a procurement solicitation for a contract that the department anticipates will cost at least $200,000 over the life of the contract:

(i) the name of each purchasing agency issuing the solicitation;

(ii) what the purchasing agency intends to procure through the solicitation;

(iii) the portion of the purchasing agency's appropriation that it intends to use to pay the vendor;

(iv) the closing date of the solicitation; and

(v) any other information the department finds relevant to the proposal;

(b) for a contract executed with or without a solicitation that is expected to cost $200,000 or more over the life of the contract:

(i) the names of the purchasing agency; and

(ii) the contractor and the date of execution; and

(c) for a contract modification that causes the total value of a contract to exceed $200,000 over the life of the contract:

(i) the names of the purchasing agency; and

(ii) the contractor and the date of execution.

(3) By February 15, May 15, August 15, and November 15 of each year, each governmental body shall submit the information listed in subsection (2) related to procurement solicitations and contracts to the department using the information technology resources specified by the department.

History: En. Sec. 1, Ch. 660, L. 2025, Sec. 2, Ch. 660, L. 2025.

Compiler's Comments

Effective Dates: Section 4, Ch. 660, L. 2025, provided that the temporary version of this section is effective July 1, 2025, and the delayed version of this section is effective July 1, 2026.

Termination: Section 5, Ch. 660, L. 2025, provided: "[Section 1] [temporary version] terminates June 30, 2026."

2025 Codification Change: Section 2, Ch. 660, L. 2025, was codified as an additional version in this section rather than as a separate section. Effective July 1, 2026.

18-4-129 and 18-4-130 reserved.

18-4-131. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 4, Ch. 519, L. 1983.

18-4-132. Application. (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money, by this state acting through a governmental body under any contract, except a contract exempted from this chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may be derived by the vendor and to a procurement of supplies or services from which income or a more advantageous business position may be derived by the state;

(c) the disposal of state supplies; and

(d) the board of investments. The provisions of this subsection (1)(d) do not apply to the purchase of securities.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments, except as provided in part 4;

(b) construction contracts;

(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by student activity fees designated for use by the student associations of the university system;

(d) contracts entered into by the Montana state lottery that have an aggregate value of less than $250,000;

(e) contracts entered into by the state compensation insurance fund to procure insurance-related services;

(f) the employment of:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of the governor;

(iv) consulting actuaries;

(v) a private person contracted by the student associations of the university system with money raised from student activity fees designated for use by those student associations;

(vi) a private consultant employed by the Montana state lottery;

(vii) a private investigator licensed by any jurisdiction;

(viii) a claims adjuster; or

(ix) a court reporter appointed as an independent contractor under 3-5-601;

(g) electrical energy purchase contracts by the university of Montana or Montana state university, as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the purchase or acquisition of energy must be retained by the board of regents of higher education for university allocation and expenditure.

(h) the purchase or commission of art for a museum or public display;

(i) contracting under 47-1-119 of the Montana Public Defender Act;

(j) contracting under Title 90, chapter 4, part 11; or

(k) contracting under Title 90, chapter 14, part 1.

History: En. Sec. 44, Ch. 519, L. 1983; amd. Sec. 1, Ch. 548, L. 1989; amd. Sec. 2, Ch. 359, L. 1995; amd. Sec. 5, Ch. 443, L. 1997; amd. Sec. 1, Ch. 407, L. 1999; amd. Sec. 1, Ch. 580, L. 1999; amd. Sec. 30, Ch. 7, L. 2001; amd. Sec. 15, Ch. 181, L. 2001; amd. Sec. 1, Ch. 153, L. 2003; amd. Sec. 2, Ch. 289, L. 2005; amd. Sec. 22, Ch. 449, L. 2005; amd. Sec. 1, Ch. 146, L. 2007; amd. Sec. 3, Ch. 439, L. 2009; amd. Sec. 1, Ch. 431, L. 2019; amd. Sec. 1, Ch. 300, L. 2023; amd. Sec. 2, Ch. 489, L. 2023; amd. Sec. 4, Ch. 228, L. 2025; amd. Sec. 1, Ch. 375, L. 2025; amd. Sec. 1, Ch. 770, L. 2025.

Compiler's Comments

2025 Amendments — Composite Section: See 2025 Session Law for amendment made by sec. 4, Ch. 228, L. 2025. Amendment effective October 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 375, L. 2025. Amendment effective July 1, 2025.

See 2025 Session Law for amendment made by sec. 1, Ch. 770, L. 2025. Amendment effective June 9, 2025.

Cross-References

Interest on student activity fees, 20-25-451.

State lottery, Title 23, ch. 7.

18-4-133. Purchases exempt from general requirements. (1) When immediate delivery of articles or performance of service is required by the public exigencies, the articles or service required may be procured by open purchase or contract at the place and in the manner in which the articles are usually bought and sold or the services engaged between individuals but under the direction of the department.

(2) (a) The department may exempt the department of corrections and the department of public health and human services from the provisions of this chapter for the purchase of suitable clothing by the department of corrections and the department of public health and human services for residents of its institutions and community-based programs.

(b) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community.

(3) When none of the bids or proposals received in response to a valid solicitation are from a responsible bidder or offeror or responsive bidder or offeror, as defined in 18-4-301, the procurement officer may:

(a) cancel and reissue the solicitation. If the procurement officer reissues the solicitation, the procurement officer shall attempt to increase the number of potential vendors and may modify any specification in the original solicitation.

(b) directly negotiate with a vendor if the procurement officer determines that a second or subsequent solicitation would also be unsuccessful.

(4) The department shall adopt rules describing the conditions under which a procurement officer may negotiate directly with a vendor. The rules must reflect the purposes described in 18-4-122.

(5) When a state department, agency, or official administers a grant of public funds and contracts with a landowner to carry out a recreational or environmental remediation, reclamation, or conservation project that benefits the state, the department may exempt the landowner from the provisions of chapter 1 and this chapter if the landowner conducts the work or conducts a form of competitive procurement allowed by the terms of the contract.

History: En. Sec. 9, Ch. 66, L. 1923; re-en. Sec. 293.9, R.C.M. 1935; amd. Sec. 8, Ch. 80, L. 1961; amd. Sec. 74, Ch. 326, L. 1974; amd. Sec. 1, Ch. 230, L. 1977; R.C.M. 1947, 82-1919; amd. Sec. 1, Ch. 418, L. 1979; amd. Sec. 1, Ch. 74, L. 1981; amd. Sec. 47, Ch. 519, L. 1983; MCA 1981, 18-4-104; redes. 18-4-133 by Code Commissioner, 1983; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 62, Ch. 546, L. 1995; amd. Sec. 6, Ch. 443, L. 1997; amd. Sec. 16, Ch. 181, L. 2001.

Cross-References

Course of dealing and usage of trade, 30-1-205.
Powers and duties of Department of Corrections, 53-1-203.

18-4-134 through 18-4-140 reserved.

18-4-141. Contract transfers and collusion prohibited — violations and penalty. (1) A contract or order or any interest in a contract or order may not be transferred, assigned, or subcontracted by the party to whom the contract or order is given to any other party without the express written approval of the state, and the state may declare void any unapproved transfer, assignment, or subcontract.

(2) Collusion or secret agreements between vendors for the purpose of securing any advantage to the vendors as against the state in the awarding of contracts are prohibited. The state may declare the contract void if the department finds sufficient evidence after a contract has been let that the contract was obtained by a vendor or vendors by reason of collusive or secret agreement among the vendors to the disadvantage of the state.

(3) All rights of action for a breach of a contract by the contracting parties are reserved to the state.

(4) A person who violates the provisions of 2-2-201 or this section, or both, is guilty of a misdemeanor and shall be fined an amount of not less than $500 or more than $5,000, and the state of Montana may at its option declare any contract in violation of the provisions of 2-2-201 or this section, or both, void ab initio.

History: En. Sec. 12, Ch. 66, L. 1923; re-en. Sec. 293.12, R.C.M. 1935; amd. Sec. 2, Ch. 43, L. 1973; amd. Sec. 77, Ch. 326, L. 1974; amd. Sec. 5, Ch. 97, L. 1977; R.C.M. 1947, 82-1922; amd. Sec. 1, Ch. 52, L. 1983; MCA 1981, 18-4-105; redes. 18-4-141 by Code Commissioner, 1983; amd. Sec. 7, Ch. 443, L. 1997; amd. Sec. 17, Ch. 181, L. 2001.

Cross-References

Public employees not to have interest in contracts, 2-2-201.
Breach of contract, 27-1-311.
Assignment of nonnegotiable written contract, 28-2-206.
When contract wholly void, 28-2-603.
When contract partially void, 28-2-604.
Illegal objects and provisions of contracts, Title 28, ch. 2, part 7.
U.C.C. — sales — delegation of performance and assignment of rights, 30-2-210.
Unfair trade practices, Title 30, ch. 14, part 2.
Classification of offenses, 45-1-201.
Misdemeanor defined, 45-2-101.
Gifts to public servants having discretionary function in contract letting, 45-7-104.
Illegal interests in contracts, 45-7-401.

Part 2
Duties of Department

18-4-201. Repealed. Sec. 53, Ch. 519, L. 1983.

History: (1)En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; Sec. 82-1917, R.C.M. 1947; (2)En. Sec. 4, Ch. 197, L. 1921; re-en. Sec. 287, R.C.M. 1921; amd. Sec. 1, Ch. 17, L. 1925; re-en. Sec. 287, R.C.M. 1935; amd. Sec. 1, Ch. 51, L. 1939; amd. Sec. 3, Ch. 80, L. 1961; amd. Sec. 60, Ch. 326, L. 1974; Sec. 82-1904, R.C.M. 1947; R.C.M. 1947, 82-1904, 82-1917(1); amd. Sec. 3, Ch. 597, L. 1979.

18-4-202. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; R.C.M. 1947, 82-1917(part); amd. Sec. 4, Ch. 597, L. 1979.

18-4-203. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; R.C.M. 1947, 82-1917(3); amd. Sec. 5, Ch. 597, L. 1979.

18-4-204 through 18-4-210 reserved.

18-4-211. Repealed. Sec. 53, Ch. 519, L. 1983.

History: (1)En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; Sec. 82-1917, R.C.M. 1947; (2)En. Sec. 8, Ch. 197, L. 1921; re-en. Sec. 291, R.C.M. 1921; re-en. Sec. 291, R.C.M. 1935; amd. Sec. 63, Ch. 326, L. 1974; Sec. 82-1908, R.C.M. 1947; R.C.M. 1947, 82-1908, 82-1917(part).

18-4-212. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; R.C.M. 1947, 82-1917(part); amd. Sec. 3, Ch. 58, L. 1979.

18-4-213. Repealed. Sec. 53, Ch. 519, L. 1983.

History: (1)En. Sec. 7, Ch. 66, L. 1923; re-en. Sec. 293.7, R.C.M. 1935; amd. Sec. 2, Ch. 69, L. 1949; amd. Sec. 1, Ch. 301, L. 1971; amd. Sec. 72, Ch. 326, L. 1974; amd. Sec. 4, Ch. 97, L. 1977; Sec. 82-1917, R.C.M. 1947; (2) thru (4)En. Sec. 11, Ch. 66, L. 1923; re-en. Sec. 293.11, R.C.M. 1935; amd. Sec. 76, Ch. 326, L. 1974; Sec. 82-1921, R.C.M. 1947; R.C.M. 1947, 82-1917(5), 82-1921(part); amd. Sec. 6, Ch. 597, L. 1979.

18-4-214. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 5, Ch. 197, L. 1921; re-en. Sec. 288, R.C.M. 1921; re-en. Sec. 288, R.C.M. 1935; amd. Sec. 4, Ch. 80, L. 1961; amd. Sec. 61, Ch. 326, L. 1974; R.C.M. 1947, 82-1905; amd. Sec. 7, Ch. 597, L. 1979.

18-4-215 through 18-4-220 reserved.

18-4-221. General procurement authority and duties of department — rules. (1) Except as otherwise provided in this chapter, the department shall adopt rules, consistent with this chapter, governing the procurement and disposal of any and all supplies and services to be procured by the state. The department shall consider and decide matters of policy within the provisions of this chapter. The department may audit and monitor the implementation of its rules and the requirements of this chapter.

(2) Except as otherwise specifically provided by law, the department shall, in accordance with its rules:

(a) procure or supervise the procurement of all supplies and services needed by the state; and

(b) sell, trade, or otherwise dispose of surplus supplies belonging to the state.

(3) Nothing contained herein shall preclude the state from doing its own printing on its own printing facilities.

History: En. Sec. 6, Ch. 519, L. 1983.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
Vehicles — requisitions for purchases, 2-17-403.
Sale of state property, Title 18, ch. 6, part 1.

18-4-222. Delegation of authority by department. Subject to the rules of the department, the director may delegate procurement authority to designees or to any state department, agency, or official.

History: En. Sec. 7, Ch. 519, L. 1983.

18-4-223. State procurement rules — delegation — existing rights. (1) Rules shall be adopted by the department in accordance with the applicable provisions of Title 2, chapter 4.

(2) The department may not delegate its power to adopt rules.

(3) No rule may change a commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of such rule.

History: En. Sec. 8, Ch. 519, L. 1983.

Cross-References

Ex post facto, obligation of contracts, and irrevocable privileges, Art. II, sec. 31, Mont. Const.

Rules — requisites for validity, 2-4-305.

18-4-224. Contract clauses — rules. (1) The department may, in its discretion, permit or require the inclusion of clauses providing for adjustments in prices, time of performance, or other appropriate contract provisions relating to the following subjects:

(a) the unilateral right of the state to order in writing:

(i) changes in the work within the scope of the contract; and

(ii) temporary work stoppage or delay of performance; and

(b) variations occurring between estimated quantities of work in a contract and actual quantities.

(2) Adjustments in price pursuant to clauses established under subsection (1) must be computed in one or more of the following ways:

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon after commencement of performance as practicable;

(b) by unit prices specified in the contract or subsequently agreed upon;

(c) by the costs attributable to the events or situations under clauses established under subsection (1) with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon; or

(d) in any other manner as the contracting parties may mutually agree.

(3) The department may, in its discretion, permit or require the inclusion in state contracts of clauses providing for appropriate remedies and relating to the following subjects:

(a) liquidated damages, as appropriate;

(b) specified excuses for delay or nonperformance;

(c) termination of the contract for default; and

(d) termination of the contract, in whole or in part, for the convenience of the state.

(4) The director or the head of a purchasing agency may vary the clauses established by the department under subsections (1) and (3) for inclusion in any particular state contract. Any variations must be supported by a written determination that states the circumstances justifying the variation. Notice of any material variation must be stated in the invitation for bids or request for proposals.

(5) Regardless of a provision in a contract, the department may accept a lower price or better value offered by a contractor.

History: **En. Sec. 32, Ch. 519, L. 1983; amd. Sec. 8, Ch. 443, L. 1997.**

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

18-4-225. Repealed. Sec. 21, Ch. 443, L. 1997.

History: **En. Sec. 33, Ch. 519, L. 1983.**

18-4-226. Surplus supply — rules. (1) As used in this section, the following definitions apply:

(a) "Supplies" means supplies owned by the state.

(b) "Surplus supplies" means any supplies having a remaining useful life but that are no longer required by the agency in possession of them. This includes obsolete supplies, scrap materials, and supplies that have completed their useful life cycle.

(2) The department shall adopt rules governing:

(a) the management of supplies during their entire life cycle;

(b) the sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, donation to a school district as provided in 18-6-101, or other appropriate method designated by rule;

(c) transfer of surplus supplies.

(3) An employee of the owning or disposing agency directly involved with the disposal may not purchase supplies sold by the employee's agency.

(4) Proceeds from the sale, lease, or disposal of surplus supplies must be allocated as provided by 18-6-101, less a reasonable handling fee.

History: **En. Secs. 34 thru 36, Ch. 519, L. 1983; amd. Sec. 3, Ch. 234, L. 1991; amd. Sec. 2, Ch. 441, L. 1999.**

Cross-References
Equipment and supplies, Title 2, ch. 17, part 2.

18-4-227. Procurement and term contract rebate account — funding — use. (1) There is an account in the state special revenue fund established by 17-2-102 known as the procurement and term contract rebate account.

(2) All rebates credited to the department from using state procurement cards and term contracts must be deposited in the account.

(3) The money in the account may be used only to:

(a) administer the state's procurement card programs;

(b) administer term contracts established by the department; and

(c) reimburse applicable funds to the federal government.

(4) The unreserved, unexpended balance of the funds collected under this section must be deposited in the general fund by the close of the fiscal year.

History: En. Sec. 1, Ch. 492, L. 2007; amd. Sec. 1, Ch. 233, L. 2015.

18-4-228 through 18-4-230 reserved.

18-4-231. Definition of specification. As used in 18-4-231 through 18-4-234, "specification" means any description of the physical or functional characteristics or of the nature of a supply or service. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery.

History: En. Sec. 28, Ch. 519, L. 1983.

18-4-232. Specifications — rules. (1) The department shall adopt rules governing the preparation, maintenance, and content of specifications for supplies and services required by the state.

(2) The department shall prepare, issue, revise, maintain, and monitor the use of specifications for supplies and services required by the state.

History: En. Sec. 29, Ch. 519, L. 1983.

Cross-References
Adoption and publication of rules, Title 2, ch. 4, part 3.

18-4-233. Using agencies' advice. The director may obtain expert advice and assistance from personnel of using agencies in the development of specifications and may delegate in writing to a using agency the authority to prepare and utilize its own specifications.

History: En. Sec. 30, Ch. 519, L. 1983.

18-4-234. Competition. All specifications shall promote overall economy for the purposes intended and encourage competition in satisfying the state's needs and may not be unduly restrictive.

History: En. Sec. 31, Ch. 519, L. 1983.

18-4-235 through 18-4-240 reserved.

18-4-241. Authority to remove or suspend vendor. (1) The department may remove a vendor for cause from consideration for award of contracts by the state.

(2) The department may temporarily suspend a vendor from consideration for award of contracts if there is probable cause to believe that the vendor has engaged in activities that may lead to removal. If an indictment has been issued for an offense that would be a cause for removal under subsection (3), the suspension must, at the request of the attorney general, remain in effect at a minimum until after the trial of the suspended vendor. The authority to remove or suspend must be exercised in accordance with rules adopted by the department.

(3) The causes for removal or suspension include the following:

(a) violation of contract provisions, as set forth in subsections (3)(a)(i) and (3)(a)(ii), of a character that is regarded by the department to be so serious as to justify removal action:

(i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for removal;

(b) failure to respond to a number of solicitations over a period of time as determined by the department in accordance with rules or failure to provide the department with a correct address;

(c) any other cause that the department determines to be so serious and compelling as to affect responsibility as a state contractor, including removal by another governmental entity; and

(d) failure to comply with the provisions of Title 39, chapter 51, or Title 39, chapter 71.

(4) The department shall issue a written decision to remove or suspend a vendor, stating the reasons for the action taken, for reasons other than those reasons provided in subsection (3)(b). A copy of the decision must be mailed or otherwise furnished immediately to the vendor involved.

History: **En. Sec. 9, Ch. 519, L. 1983; amd. Sec. 26, Ch. 234, L. 1987; amd. Sec. 9, Ch. 443, L. 1997.**

Cross-References

Breach of contract, 27-1-311.

18-4-242. Exclusive remedies for unlawful solicitation or award. (1) This section establishes the exclusive remedies for a solicitation or award of a contract determined to be in violation of the law.

(2) Except for small purchases or limited solicitations made pursuant to 18-4-305, a bidder, offeror, or contractor aggrieved in connection with the solicitation or award of a contract may protest to the department. The protest must be submitted to the department in writing no later than 14 days after execution of the contract.

(3) If the protest is not resolved by mutual agreement, the department shall issue in writing a decision on the protest within 30 days after receipt of the protest. The decision must:

(a) state the reason for the action taken by the department with regard to the contract; and

(b) inform the aggrieved party of the party's right to request, within 14 days after the date of the department's written decision, a contested case hearing pursuant to the Montana Administrative Procedure Act.

(4) In a protest or contested case proceeding, the department may, in an appropriate case, order a remedy provided in subsection (5) or (6).

(5) If before an award it is determined that a solicitation or proposed award of a contract is in violation of law, the solicitation or proposed award may be:

(a) canceled; or

(b) revised to comply with the law.

(6) (a) If after an award it is determined that a solicitation or award of a contract is in violation of law and the person awarded the contract has not acted fraudulently or in bad faith, the contract may be:

(i) ratified and affirmed, provided it is determined that doing so is in the best interests of the state; or

(ii) terminated, and the person awarded the contract must be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, before the termination.

(b) If after an award it is determined that a solicitation or award of a contract is in violation of law and the person awarded the contract has acted fraudulently or in bad faith, the contract may be:

(i) declared void; or

(ii) ratified and affirmed if that action is in the best interests of the state, without prejudice to the state's rights to appropriate damages.

(7) The exclusive method of judicial review of a solicitation or award by the department pursuant to this chapter is by a petition for judicial review pursuant to 2-4-702. In a proceeding pursuant to that section, the court may, in an appropriate case, order a remedy provided by subsection (5) or (6) of this section. Except as provided in subsections (6)(a)(ii) and (6)(b)(ii), there is no right under any legal theory to recover a form of damages or expenses for a solicitation or award of a contract in violation of law. Any other claim, cause of action, or request for relief for solicitations or awards allegedly made in violation of law may not be heard or granted by a district court other than as provided in this section.

(8) The state is not required to delay, halt, or modify the procurement process pending the result of a protest, contested case proceeding, or judicial review.

(9) The department may adopt rules governing the protest of solicitations or awards.

History: En. Sec. 10, Ch. 519, L. 1983; amd. Sec. 10, Ch. 443, L. 1997; amd. Sec. 48, Ch. 51, L. 1999.

Cross-References

Conditional obligations, Title 28, ch. 1, part 4.
Alternative obligations, Title 28, ch. 1, part 5.
Novation, Title 28, ch. 1, part 15.
When proposal may be revoked, 28-2-511.
How proposal revoked, 28-2-512.
Modification of contracts, Title 28, ch. 2, part 16.
When party may rescind, 28-2-1711.

Part 3
Procurement Procedure

18-4-301. Definitions. As used in this part, the following definitions apply:

(1) "Alternative procurement method" means a method of procuring supplies or services in a manner not specifically described in this chapter, but instead authorized by the department under 18-4-302.

(2) "American-made" means either a product made exclusively within the United States or a value-added product consisting of a product that contains 50% or more of materials from the United States.

(3) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this chapter and a fee, if any.

(4) (a) "Displacement" means the layoff, demotion, or involuntary transfer of a state employee.

(b) Displacement does not include changes in shift or days off or reassignment to other positions within the same class and at the same general location.

(5) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(6) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

(7) "Purchase description" means the words used in a solicitation to describe the supplies or services to be purchased and includes specifications attached to or made a part of the solicitation.

(8) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(9) "Responsible" means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance.

(10) "Responsive" means conforms in all material respects to the invitation for bids or request for proposals.

(11) "Term contract" means a contract in which supplies or services are purchased at a predetermined unit price for a specific period of time.

History: En. Sec. 12, Ch. 519, L. 1983; amd. Sec. 1, Ch. 303, L. 1987; amd. Sec. 1, Ch. 761, L. 1991; amd. Secs. 18, 19, Ch. 181, L. 2001; amd. Sec. 3, Ch. 289, L. 2005; amd. Sec. 1, Ch. 226, L. 2007; amd. Sec. 1, Ch. 145, L. 2015.

18-4-302. Methods of source selection — authorization for alternative procurement methods. (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) When the department or another agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price is received at or before the time that the bids or proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions for the best proposal received using the same factors and weights included in the proposal, the department or agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) An office supply procured by the department may be purchased by an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered by the department if the office supply conforms in all material respects to the terms, conditions, and quality offered by the department. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

(4) (a) Under rules adopted by the department, an agency may request from the department authorization for an alternative procurement method.

(b) A request for authorization must specify:

(i) the problem to be solved;

(ii) the proposed alternative procurement method;

(iii) the reasons why the alternative procurement method may be more appropriate than a method authorized by law; and

(iv) how competition and fairness will be achieved by the alternative procurement method.

(c) Within 30 days after receiving the request, the department shall:

(i) evaluate the request;

(ii) approve or deny the request; and

(iii) issue a written statement providing the reasons for its decision.

(d) Whenever the department approves a request submitted under this section, the department:

(i) may authorize the alternative procurement method on a trial basis; and

(ii) if the alternative procurement method is employed, shall make a written determination as to the success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122.

History: En. Sec. 13, Ch. 519, L. 1983; amd. Sec. 2, Ch. 303, L. 1987; amd. Sec. 1, Ch. 329, L. 1989; amd. Sec. 1, Ch. 11, Sp. L. November 1993; amd. Sec. 11, Ch. 443, L. 1997; amd. Sec. 20, Ch. 181, L. 2001; amd. Sec. 2, Ch. 145, L. 2015.

18-4-303. Competitive sealed bidding. (1) An invitation for bids must be issued and must include a purchase description and conditions applicable to the procurement.

(2) Adequate public notice of the invitation for bids must be given a reasonable time before the date set forth in the invitation for the submission of bids, in accordance with rules adopted by the department. Notice may include publication in a newspaper of general circulation at a reasonable time before the bid submission deadline.

(3) Bids and other information received from bidders in response to an invitation for bids may not be inspected by the public until the department provides notice of intent to award a contract as provided in subsection (9). After the department provides notice of intent to award a contract, bids and other information received from bidders may be inspected by other bidders and the public subject to the same limitations specified in 18-4-304(8) for competitive sealed proposals.

(4) Bids must be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids must be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award must be objectively measurable, such as discounts, transportation costs, and total or life-cycle costs. The invitation

for bids must set forth the evaluation criteria to be used. Only criteria set forth in the invitation for bids may be used in bid evaluation.

(5) Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes may be permitted in accordance with rules adopted by the department. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the state or fair competition may not be permitted. Except as otherwise provided by rule, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes must be supported by a written determination made by the department.

(6) If an award is made, it must be made with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, including the preferences established by Title 18, chapter 1, part 1. If all bids exceed available funds as certified by the appropriate fiscal officer and the lowest responsible and responsive bid does not exceed the funds by more than 5%, the director or the head of a purchasing agency may, in situations in which time or economic considerations preclude resolicitation of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible and responsive bidder in order to bring the bid within the amount of available funds.

(7) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers, to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(8) In case of a tie bid, preference must be given to the bidder, if any, offering American-made products or supplies.

(9) Prior to awarding a contract, the department shall provide to the public notice of intent to award a contract and of 7 days to submit written comments regarding the proposed award.

History: **En. Sec. 14, Ch. 519, L. 1983; amd. Sec. 2, Ch. 761, L. 1991; amd. Sec. 12, Ch. 443, L. 1997; amd. Sec. 4, Ch. 289, L. 2005; amd. Sec. 2, Ch. 226, L. 2007; amd. Sec. 3, Ch. 489, L. 2023.**

Cross-References

Public officers, employees, and former employees not to have interest in contracts, 2-2-201.

18-4-304. Competitive sealed proposals. (1) The department may procure supplies and services through competitive sealed proposals.

(2) Proposals must be solicited through a request for proposals.

(3) Adequate public notice of the request for proposals must be given in the same manner as provided in 18-4-303(2).

(4) Proposals and other information received from offerors in response to a request for proposals may not be inspected by the public until the department provides notice of intent to award a contract as provided in subsection (7). After the department provides notice of intent to award a contract, proposals and other information received from offerors may be inspected by other offerors and the public subject to the limitations in subsection (8).

(5) The request for proposals must state the evaluation criteria and their relative importance. If an award is made, it must be made to the responsible and responsive offeror whose proposal best meets the evaluation criteria. Other criteria may not be used in the evaluation. The contract file must demonstrate the basis on which the award is made.

(6) The department may discuss a proposal with an offeror for the purpose of clarification or revision of the proposal.

(7) Prior to awarding a contract, the department shall provide to the public notice of intent to award a contract and of 7 days to submit written comments regarding the proposed award.

(8) Prior to releasing proposals and other information received from offerors, the department shall evaluate whether public disclosure must be limited:

(a) under the Uniform Trade Secrets Act provided for in Title 30, chapter 14, part 4;

(b) due to matters involving individual safety; and

(c) as required by other constitutional protections.

History: **En. Sec. 15, Ch. 519, L. 1983; amd. Sec. 10, Ch. 130, L. 1995; amd. Sec. 13, Ch. 443, L. 1997; amd. Sec. 2, Ch. 416, L. 1999; amd. Sec. 5, Ch. 289, L. 2005; amd. Sec. 4, Ch. 489, L. 2023.**

18-4-305. Small purchases and limited solicitations. Any procurement not exceeding the amount established by rule may be made in accordance with small purchase or limited solicitation procedures established by the department. Procurement requirements may not be artificially divided so as to constitute a small purchase or limited solicitation under this section.

History: En. Sec. 16, Ch. 519, L. 1983; amd. Sec. 14, Ch. 443, L. 1997.

18-4-306. Sole source procurement — records. (1) A contract may be awarded for a supply or service item without competition when, under rules adopted by the department, the director, the head of a purchasing agency, or a designee of either officer above the level of the procurement officer determines in writing that:

(a) there is only one source for the supply or service item;

(b) only one source is acceptable or suitable for the supply or service item; or

(c) the supply or service item must be compatible with current supplies or services.

(2) The department may require the submission of cost or pricing data in connection with an award under this section.

(3) The department shall maintain or shall require the head of a purchasing agency to maintain a record listing all contracts made under this section for a minimum of 4 years. The record must contain:

(a) each contractor's name;

(b) the amount and type of each contract; and

(c) a listing of the supplies or services procured under each contract.

(4) The record must be available for public inspection.

History: En. Secs. 17, 27, Ch. 519, L. 1983; amd. Sec. 21, Ch. 181, L. 2001.

Cross-References

Public records management, Title 2, ch. 6, parts 10 and 11.

18-4-307. Cancellation of invitations for bids or requests for proposals. (1) An invitation for bids, a request for proposals, or other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the best interests of the state. The reasons must be made part of the contract file.

(2) The department may consider public comment when deciding whether to take any action described in this section.

History: En. Sec. 18, Ch. 519, L. 1983; amd. Sec. 5, Ch. 489, L. 2023.

18-4-308. Nonresponsibility of bidders and offerors. A written determination of nonresponsibility of a bidder or offeror must be made in accordance with rules adopted by the department. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to that bidder or offeror.

History: En. Sec. 19, Ch. 519, L. 1983; amd. Sec. 6, Ch. 289, L. 2005.

18-4-309. Prequalification of suppliers. Prospective suppliers may be prequalified in accordance with department rules for particular types of supplies and services.

History: En. Sec. 20, Ch. 519, L. 1983; amd. Sec. 15, Ch. 443, L. 1997.

18-4-310. Types of contracts. Any type of contract that will promote the best interests of the state may be used.

History: En. Sec. 21, Ch. 519, L. 1983; amd. Sec. 16, Ch. 443, L. 1997.

18-4-311. Repealed. Sec. 1, Ch. 87, L. 2017.

History: En. Sec. 22, Ch. 519, L. 1983.

18-4-312. Bid and contract performance security. (1) For state contracts for the procurement of services or of supplies, the department may in its discretion require:

(a) bid security;

(b) contract performance security to guarantee the faithful performance of the contract and the payment of all laborers, suppliers, mechanics, and subcontractors; or

(c) both bid and contract performance security.

(2) (a) If security is required under subsection (1), the following types of security may be required to be deposited with the state:

(i) a sufficient bond with a licensed surety company as surety;

(ii) an irrevocable letter of credit in accordance with the provisions of Title 30, chapter 5, part 1;

(iii) money of the United States;

(iv) a cashier's check, certified check, bank money order, certificate of deposit, money market certificate, or bank draft that is drawn or issued by a federally chartered or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the federal deposit insurance corporation or that is drawn and issued by a credit union insured by the national credit union share insurance fund.

(b) The department may not require that a bond required pursuant to subsection (2)(a)(i) be furnished by a particular surety company or by a particular insurance producer for a surety company.

(3) The amount and type of the security must be determined by the department to be sufficient to cover the risk involved to the state. The security must be payable to the state of Montana. Contract performance security must remain in effect for the entire contract period, except as provided pursuant to an agency liquor store franchise agreement under 16-2-101. In determining the amount and type of contract performance security required for each contract, the department shall consider the nature of the performance and the need for future protection to the state. In determining the need for and amount of bid security, the department shall consider the risks involved to the state if a successful bidder or offeror fails to enter into a formal contract. The considerations must include but are not limited to the type of supply or service being procured, the dollar amount of the proposed contract, and delivery time requirements. The department may adopt rules to assist it in making these determinations and in protecting the state in dealing with irrevocable letters of credit. Bid and contract security requirements must be included in the invitations for bids or requests for proposals.

(4) If a bidder or offeror to whom a contract is awarded fails or refuses to enter into the contract or provide contract performance security, as required by the invitation for bid or request for proposal, after notification of award, the department may, in its discretion, require the bidder or offeror to forfeit the bid security to the state and become immediately liable on the bid security, but not in excess of the sum stated in the security. The liability of the bidder or offeror, the maker of the security or bid bond, or the liability on the bid bond or other security may not exceed the amount specified in the invitation for bid or request for proposal.

(5) Negotiable instruments provided as bid security must be refunded to those bidders or offerors whose bids or proposals are not accepted.

(6) The provisions of Title 18, chapter 1, part 2, and Title 18, chapter 2, parts 2 and 3, do not apply to procurements under this chapter.

History: En. Sec. 23, Ch. 519, L. 1983; amd. Sec. 2, Ch. 424, L. 1985; amd. Sec. 11, Ch. 130, L. 1995; amd. Sec. 17, Ch. 443, L. 1997; amd. Sec. 4, Ch. 203, L. 2003; amd. Sec. 7, Ch. 289, L. 2005.

Cross-References

Guaranty, indemnity, and suretyship, Title 28, ch. 11.

18-4-313. *(Temporary)* **Contracts — terms, extensions, and time limits.** (1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or 53-30-608;

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan;

(e) a contract for concessions or visitor services for a state park, state recreational area, state monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is made, subject to subsection (5); or

(f) a comprehensive agreement that uses an innovative financing delivery option as provided in 18-2-501 through 18-2-503.

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid within the life of the contract or that where a proprietary interest is held, the concessionaire's interest in any capital improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes. *(Terminates July 1, 2033—sec. 6, Ch. 418, L. 2023.)*

18-4-313. *(Effective July 2, 2033)* **Contracts — terms, extensions, and time limits.** (1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or 53-30-608;

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan; and

(e) a contract for concessions or visitor services for a state park, state recreational area, state monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is made, subject to subsection (5).

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid within the life of the contract or that where a proprietary interest is held, the concessionaire's interest in any capital improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes.

History: En. Sec. 24, Ch. 519, L. 1983; amd. Sec. 1, Ch. 121, L. 1985; amd. Sec. 3, Ch. 228, L. 1993; amd. Sec. 12, Ch. 130, L. 1995; amd. Sec. 63, Ch. 546, L. 1995; amd. Sec. 22, Ch. 181, L. 2001; amd. Secs. 40, 46, Ch. 313, L. 2001; amd. Sec. 8, Ch. 289, L. 2005; amd. Sec. 2, Ch. 127, L. 2007; amd. Sec. 1, Ch. 322, L. 2015; amd. Sec. 4, Ch. 418, L. 2023.

Cross-References

Information technology, Title 2, ch. 17, part 5.
Alcohol administration and taxation, Title 16, ch. 1.
Retroactive application, 18-4-132.
Contracts — what is unlawful, 28-2-701.
Time of performance, Title 28, ch. 3, part 6.
Medical assistance — Medicaid, Title 53, ch. 6, part 1.

18-4-314. Reporting of anticompetitive practices. If for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general by the department.

History: En. Sec. 25, Ch. 519, L. 1983.

Cross-References

Unfair trade practices, Title 30, ch. 14, part 2.

Part 4
Cooperative Purchasing

18-4-401. Definitions. As used in this part, the following definitions apply:

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.

(2) "Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any nonprofit corporation operating a charitable hospital.

(3) "Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.

(4) "State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.

(5) "Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

History: En. Sec. 37, Ch. 519, L. 1983; amd. Sec. 1, Ch. 200, L. 1999.

18-4-402. Cooperative purchasing authorized. The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts between public procurement units, open-ended state public procurement unit contracts that are made available to local public procurement units, and competitive contracts established by for-profit, not-for-profit, or nonprofit cooperative entities.

History: En. Sec. 38, Ch. 519, L. 1983; amd. Sec. 18, Ch. 443, L. 1997; amd. Sec. 1, Ch. 185, L. 2011.

18-4-403. Sale, acquisition, or use of supplies by a public procurement unit. The department may sell to, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of part 3.

History: En. Sec. 39, Ch. 519, L. 1983.

18-4-404. Cooperative use of supplies or services. The department may enter into an agreement, independent of the requirements of part 3, with any other public procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.

History: En. Sec. 40, Ch. 519, L. 1983.

Cross-References

Procurement of services, Title 18, ch. 8.

18-4-405. Joint use of facilities. The department may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit under the terms agreed upon between the parties.

History: En. Sec. 41, Ch. 519, L. 1983.

18-4-406. Information and services — fees. (1) Upon request, the department may make available to public procurement units certain services, including but not limited to the following:

(a) standard forms;
(b) printed manuals;
(c) product specifications and standards;
(d) quality assurance testing services and methods;
(e) qualified products lists;
(f) source information;
(g) common use commodities listings;
(h) supplier prequalification information;
(i) supplier performance ratings;
(j) debarred and suspended bidders lists;
(k) forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms;
(l) contracts or published summaries thereof, including price and time of delivery information; and
(m) cooperative purchasing.

(2) The state, through the department, may provide technical services, including but not limited to the following:

(a) development of product specifications;
(b) development of quality assurance test methods, including receiving, inspection, and acceptance procedures;
(c) use of product testing and inspection facilities; and
(d) use of personnel training programs.

(3) The department may enter into contractual arrangements and publish a schedule of fees for the services provided under subsections (1) and (2). Such fees may be used by the department to offset costs incurred in providing such services.

History: En. Sec. 42, Ch. 519, L. 1983.

18-4-407. Review of procurement requirements. To the extent possible, the department may collect information concerning the type, cost, quality, and quantity of commonly used supplies or services being procured or used by state public procurement units. The department may make available all such information to any public procurement unit upon request.

History: En. Sec. 43, Ch. 519, L. 1983.

CHAPTER 5
SPECIAL PURCHASING CONDITIONS

Part 1 — Sheltered Workshops

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18-5-605. Implementation.

Part 1
Sheltered Workshops

Part Cross-References

Sheltered workshops, Title 53, ch. 7, part 2.

18-5-101. Definitions. As used in this part, the following definitions apply:

(1) "Certified sheltered workshop" or "work activity center" means a nonprofit corporation incorporated under the laws of the state for the purpose of providing vocational services to persons with disabilities, in whole or in part, that:

(a) holds a current certificate issued by the United States department of labor for either one or all of the following:

(i) evaluation or training;

(ii) a regular work program; or

(iii) a work activity center;

(b) complies with other applicable occupational, health, and safety standards of local, state, and federal governments governing the operation of the facility not otherwise included in this part;

(c) in the manufacture of products and in the provision of service, whether or not the product or service is procured under this part, employs and trains persons with disabilities for not less than 75% of the hours of direct labor required for the manufacture of products or the provision of service; and

(d) is referred to as a "facility".

(2) "Department" means the department of administration.

(3) "Person with a disability" means an individual with a physical, mental, or emotional disability that constitutes a substantial impediment to employment and that prevents the individual with the disability from engaging in normal competitive employment.

History: En. 82-1941 by Sec. 1, Ch. 547, L. 1977; R.C.M. 1947, 82-1941; amd. Sec. 16, Ch. 472, L. 1997.

Cross-References

Nonprofit corporations, Title 35, ch. 2.
Vocational rehabilitation, Title 53, ch. 7.
Sheltered employment defined, 53-7-202.
Persons with developmental disabilities, Title 53, ch. 20.

18-5-102. Duties and powers of department of administration. (1) The department shall maintain a current list of facilities located in this state, including a list of products and services provided by each facility, based on information provided by the facilities. A facility requesting to be included on the list shall indicate the products and services available from it and shall provide the department with updated information, as necessary.

(2) The department may contract with a nonprofit organization to:

(a) certify facilities;

(b) provide technical assistance to facilities on matters of product or service capabilities;

(c) facilitate distribution of orders among facilities and to ensure equal opportunity in obtaining orders.

(3) The department shall adopt, revise, and amend rules to implement this part in accordance with the procedures of the Montana Administrative Procedure Act.

History: **En. 82-1942 by Sec. 2, Ch. 547, L. 1977; R.C.M. 1947, 82-1942; amd. Sec. 1, Ch. 270, L. 1985; amd. Sec. 17, Ch. 472, L. 1997.**

Cross-References

Proof of market price — time and place, 30-2-723.
Sheltered workshops — legislative findings and purpose, 53-7-201.
Purchase of sheltered employment services, 53-7-203.

18-5-103. Procurement requirements. State departments, institutions, and agencies may procure listed products and services from a facility. The provisions of this title relating to competitive bidding do not apply to purchases made in accordance with this part.

History: **En. 82-1943 by Sec. 3, Ch. 547, L. 1977; R.C.M. 1947, 82-1943; amd. Sec. 2, Ch. 270, L. 1985; amd. Sec. 18, Ch. 472, L. 1997.**

Cross-References

Purchase of sheltered employment services, 53-7-203.

18-5-104. Repealed. Sec. 7, Ch. 58, L. 1979.

History: **En. 82-1938, 82-1939, 82-1940 by Secs. 1, 2, 3, Ch. 123, L. 1974; R.C.M. 1947, 82-1938, 82-1939, 82-1940.**

Part 2
Surplus Property Procurement

18-5-201. Administration of the state agency for federal surplus property. There is a Montana state agency for federal surplus property that is administered by a department designated by the governor. The director of the department may prescribe the duties of personnel needed to carry out the duties under this part.

History: **En. Sec. 1, Ch. 136, L. 1953; amd. Sec. 1, Ch. 478, L. 1977; R.C.M. 1947, 82-3101; amd. Sec. 2, Ch. 485, L. 1989.**

Cross-References

State agency for surplus property, 2-15-1011.
Acceptance of federal facilities and installations, 77-1-212.

18-5-202. Authority and duties of the state agency for surplus property. (1) The state agency for surplus property is hereby authorized and empowered to:

(a) acquire from the United States of America under and in conformance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the "act", such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes authorized by the act;

(b) warehouse such property; and

(c) distribute such property within the state to eligible participants.

(2) The state agency for surplus property is hereby authorized to receive applications from eligible participants for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting such applications from the appropriate authorities of the state, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under section 203(k) of the act as amended.

(3) For the purpose of executing its authority under this part, the state agency for surplus property is authorized and empowered to adopt, amend, or rescind such rules and prescribe such requirements as may be deemed necessary and take such other action as is deemed necessary and suitable in the administration of this part to assure maximum utilization by and benefit to participants within the state from property distributed under this part.

(4) The state agency for surplus property is authorized and empowered to make such certifications, take such action, make such expenditures, and enter into such contracts, agreements, and undertakings for and in the name of the state (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel, and services of each by the other), require such reports and make such investigation as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the state agency for surplus property from the United States of America.

(5) The state agency for surplus property is authorized and empowered to act as clearinghouse of information for eligible participants to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from eligible participants and to transmit to them all available information in reference to such property, and to aid and assist eligible participants in every way possible in the consummation of acquisitions or transactions hereunder.

(6) The state agency for surplus property, in the administration of this part, shall cooperate to the fullest extent consistent with the provisions of the act, with the departments or agencies of the United States of America and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with the act; make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require; and comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use, or accounting for property donable or donated to the state.

History: En. Sec. 2, Ch. 136, L. 1953; amd. Sec. 1, Ch. 166, L. 1957; amd. Sec. 2, Ch. 478, L. 1977; R.C.M. 1947, 82-3102.

Cross-References

Public land trust — disposition, Art. X, sec. 11, Mont. Const.

Fish and wildlife — state-federal relationships, Title 87, ch. 1, part 7.

18-5-203. Agency for surplus property — authorization for financing. The state agency for surplus property must be self-sustaining and shall pay for its operation and maintenance directly from receipts from surplus property that must be deposited in the treasury in an enterprise fund.

History: En. Sec. 4, Ch. 136, L. 1953; amd. Sec. 66, Ch. 147, L. 1963; amd. Sec. 1, Ch. 389, L. 1977; amd. Sec. 3, Ch. 478, L. 1977; R.C.M. 1947, 82-3104; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 1, Ch. 42, L. 2001.

Cross-References

Fund structure, 17-2-102.

18-5-204. Department director — delegating powers. The director of the department may delegate to any employees of the state agency for surplus property the power and authority that the director considers reasonable and proper for the effective administration of this part.

History: En. as addition to Ch. 31, Title 82, 1947 Code by Sec. 2, Ch. 166, L. 1957; amd. Sec. 49, Ch. 177, L. 1965; amd. Sec. 4, Ch. 478, L. 1977; R.C.M. 1947, 82-3105; amd. Sec. 226, Ch. 56, L. 2009.

Cross-References

Bonds of state officers and employees, Title 2, ch. 9, part 6.

18-5-205. Officers or employees authorized to secure transfer of federal surplus property. (1) Notwithstanding any provision of law to the contrary, the governing board or, if there is none, the executive head of a state department or agency or of a city, county, school district, or other political subdivision may by order or resolution confer upon an officer or employee continuing authority to:

(a) secure the transfer to it of surplus property under this part through the department designated in 18-5-201 under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended; and

(b) obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of the transfers.

(2) The authority conferred upon an officer or employee by an order or resolution remains in effect until the order or resolution is revoked and written notice of the revocation has been received by the department.

History: En. as addition to Ch. 31, Title 82, 1947 Code by Sec. 3, Ch. 166, L. 1957; amd. Sec. 5, Ch. 478, L. 1977; R.C.M. 1947, 82-3106; amd. Sec. 3, Ch. 485, L. 1989.

Part 3
Small Business Preferences (Repealed)

18-5-301. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1929 by Sec. 1, Ch. 204, L. 1974; R.C.M. 1947, 82-1929.

18-5-302. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1930 by Sec. 2, Ch. 204, L. 1974; R.C.M. 1947, 82-1930.

18-5-303. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1931 by Sec. 3, Ch. 204, L. 1974; R.C.M. 1947, 82-1931; amd. Sec. 1, Ch. 271, L. 1999.

18-5-304. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1932 by Sec. 4, Ch. 204, L. 1974; amd. Sec. 7, Ch. 97, L. 1977; R.C.M. 1947, 82-1932; amd. Sec. 2, Ch. 271, L. 1999.

18-5-305. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1933 by Sec. 5, Ch. 204, L. 1974; R.C.M. 1947, 82-1933; amd. Sec. 3, Ch. 271, L. 1999.

18-5-306. Repealed. Sec. 4, Ch. 271, L. 1999.
History: En. 82-1934 by Sec. 6, Ch. 204, L. 1974; R.C.M. 1947, 82-1934.

18-5-307. Repealed. Sec. 4, Ch. 271, L. 1999.
History: En. 82-1935 by Sec. 7, Ch. 204, L. 1974; R.C.M. 1947, 82-1935.

18-5-308. Repealed. Secs. 4(2), 5(2), Ch. 271, L. 1999.
History: En. 82-1936 by Sec. 8, Ch. 204, L. 1974; R.C.M. 1947, 82-1936; amd. Sec. 23, Ch. 181, L. 2001.

Part 4
Vending Facilities

Part Cross-References
Blind person preference, Title 18, ch. 5, part 5.

18-5-401. Purpose. It is the purpose of this part, in recognition of the vocational and economic needs of blind persons, to make available to those blind persons in need of vocational opportunities space in state, federal, or other property appropriate for certain business operations and to assist those persons in the development of business operations.
History: En. Sec. 1, Ch. 175, L. 1981.

18-5-402. Definitions. As used in this part, the following definitions apply:

(1) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision in the better eye to such a degree that the widest diameter of the visual field subtends an angle that is not greater than 20 degrees as determined by an ophthalmologist or a physician skilled in diseases of the eye.

(2) "Blind vendor" means a person certified as a blind person for the purpose of this part and who is operating a vending facility administered by the department.

(3) "Certified blind person" means a blind person whom the department has determined to be a blind person as defined in this part, who is in need of vocational opportunities, and who is qualified to operate a vending facility.

(4) "Department" means the department of public health and human services.

(5) "Federal property" means buildings or portions of buildings or other real property owned or leased by the federal government upon which the department may administer vending facilities by an agreement entered into under the authority of the federal Randolph-Sheppard Act, as amended.

(6) "Other property" means all real property other than state or federal property as defined in this part.

(7) "State property" means those buildings or portions of buildings or other real property owned or leased under a lease-purchase agreement or, in the case of a building, leased in its entirety by the state or agencies of the state and used in the conduct of state matters and occupied principally by state employees. State property for the purpose of this part does not include vocational institutions or institutions of higher education.

(8) "Vending facility" means an area and equipment inclusive of vending machines on state property that is or may be used in providing a food, beverage, or other service to employees and other persons present on the property.

(9) (a) "Vending machine" means a device for the dispensing of foodstuffs, liquids, or other products when money is inserted into the device.

(b) The term does not include postage stamp machines or coin-operated telephones.

(10) "Vocational rehabilitation programs" means those programs provided for under the federal Randolph-Sheppard Act, as amended, and Title 53, chapter 7, part 3.

History: En. Sec. 2, Ch. 175, L. 1981; amd. Sec. 64, Ch. 546, L. 1995; amd. Sec. 1, Ch. 249, L. 2005.

18-5-403. Certification and eligibility of blind persons. (1) The department shall certify for the purposes of this part and the federal Randolph-Sheppard Act, as amended, those persons who are blind persons as defined in this part who the department has determined are in need of vocational opportunities and are qualified to operate vending facilities.

(2) Any person or vendor operating a vending facility under the auspices of the blind vendor program administered by the department prior to October 1, 1981, may be certified as a blind vendor for the purposes of this part.

(3) Only certified blind persons are eligible for the vocational opportunities provided in this part.

History: En. Sec. 3, Ch. 175, L. 1981.

18-5-404. Vending facilities, equipment, and supplies — available to certified blind persons. (1) The department may make available to a certified blind person a vending facility appropriate for providing that person with a business opportunity determined by the department to be suitable for that person.

(2) The department may, through the vocational rehabilitation programs it administers, provide by sale, lease, loan, or grant such equipment, stocks, and supplies as may be necessary for a blind vendor to establish or improve a vending facility business. The department shall retain a first option to repurchase any equipment it has sold to a blind vendor.

History: En. Sec. 4, Ch. 175, L. 1981.

18-5-405. Right to fair hearing. A blind vendor is entitled to a fair hearing for any grievance against the department.

History: En. Sec. 8, Ch. 175, L. 1981.

18-5-406. Health and retirement fund — services to vendors. (1) The department may manage a health and retirement fund for blind vendors.

(2) The department may set aside a reasonable percentage of the net incomes earned by blind vendors from the operation of vending facilities on state and other property administered by the department to fund the operation of vending facilities and to fund the blind vendors' health and retirement fund.

(3) The department may use all net income earned from facilities operated under the provisions of 18-5-415(2) and 18-5-416 to fund services to blind vendors and to fund the blind vendors' health and retirement fund.

History: En. Sec. 6, Ch. 175, L. 1981.

18-5-407 through 18-5-410 reserved.

18-5-411. Administration of vending facilities — state properties. (1) The department of administration or any other department of state government that administers state property subject to this part shall transfer to the department the management and control of any vending facility that the department has determined is an appropriate facility for the purposes of this part and that the department has determined is needed for the purposes of this part.

(2) The department of administration or any other department of state government that administers state property subject to this part shall give reasonable notice to the department of the expiration or termination of any lease or contract in effect for a vending facility.

(3) Upon receipt of the notice, the department shall give reasonable notice to the department of administration or other department of state government that sent the notice required in subsection (2) stating that the department has determined that the vending facility is either appropriate and needed for the purposes of this part or that it is not.

(4) A state agency administering state property shall consult with the department when planning for a new state building, planning for remodeling of or addition to an existing state building, or negotiating the lease of a building for state use to determine what vending facilities might be appropriate for the site and plan for the vending facilities.

(5) The department shall administer those vending facilities that are determined to be appropriate and necessary.

History: **En. Sec. 5, Ch. 175, L. 1981; amd. Sec. 227, Ch. 56, L. 2009.**

18-5-412. Administration of vending facilities on other property. The department may enter into agreements with private parties or governmental entities not otherwise coming under the provisions of this part owning or controlling other property for the establishment and administration of blind vendor operations.

History: **En. Sec. 9, Ch. 175, L. 1981.**

18-5-413. Implementation of Randolph-Sheppard Act, as amended. (1) The department may enter into agreements with the federal government as provided for in the Randolph-Sheppard Act, as amended, for administering the Randolph-Sheppard Act for all state or federal purposes.

(2) The department may adopt rules to implement agreements with the federal government entered into under the Randolph-Sheppard Act, as amended.

History: **En. Sec. 10, Ch. 175, L. 1981.**

18-5-414. Authority to adopt rules. The department may adopt such rules as are necessary to effectuate this part.

History: **En. Sec. 11, Ch. 175, L. 1981.**

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

18-5-415. Operation of facilities. (1) The department is not subject to any requirements for competitive bidding on state leases or services to the state on vending facilities that are to be made available to certified blind persons or when purchasing initial supplies for the purpose of assisting a blind vendor.

(2) The department may temporarily operate a vending facility administered by the department if there is no certified blind person qualified to operate that facility.

(3) Neither a blind vendor nor the department is required to pay for rent, utilities, janitorial services in accessible public areas, or building maintenance costs for the space occupied by a vending facility on state property. The department may charge a use fee in lieu of rental, on a basis to be determined by the department, in the case of any blind vendor operating a vending facility on state property whose net income for at least 10 of the preceding 12 months has exceeded twice the poverty level income for a nonfarm family of four as determined by the federal government.

(4) The department may purchase, sell, lease, maintain, and manage as necessary the equipment, stocks, and supplies required for the operation of those vending facilities administered as provided for in this part.

(5) The department shall, by rule, provide for appropriate allocation between the department and the blind vendors of liability for the operation of vending facilities operated pursuant to this part.

(6) After consultation with departments that are served by vending facilities subject to this part, the department may take action as necessary to assure the quality of services being provided by blind vendors.

History: En. Secs. 5, 7, Ch. 175, L. 1981.

18-5-416. Vending machines. The department may, except on state property, directly or through contractual arrangements, operate a facility consisting solely of vending machines if it has determined that operation by a blind vendor would be inappropriate. The department shall not directly operate vending machines on any state property where the department does not directly operate vending machines on October 1, 1981, unless, after competitive bid, the department is unable to obtain a suitable private contractor to operate vending machines on the state property. The department shall not, except through competitive bid, authorize a blind vendor to operate on state property a vending facility which consists solely or primarily of vending machines and which does not require the active presence of a vendor during its hours of operation.

History: En. Sec. 5, Ch. 175, L. 1981.

18-5-417. Vending machine special revenue account — purpose — statutory appropriation. (1) There is a vending machine account in the state special revenue fund to the credit of the department of public health and human services.

(2) The department shall collect a percentage of income from vending machines on federal property and state property that are not operated by a blind vendor and deposit it in the account. The percentage of income to be collected may be established by the department through its authority under 18-5-414.

(3) Money deposited in the account is statutorily appropriated, as provided in 17-7-502, to the department and may be used only for the purposes of this part in a manner consistent with federal law.

History: En. Sec. 1, Ch. 642, L. 2025.

Compiler's Comments

Effective Date: Section 4, Ch. 642, L. 2025, provided: "[This act] is effective July 1, 2025."

Part 5
Blind Person Preference

Part Cross-References

Vending facilities, Title 18, ch. 5, part 4.

18-5-501. Definitions. For purposes of this part, the following definitions apply:

(1) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision in the better eye to such a degree that the widest diameter of the visual field subtends an angle no greater than 20 degrees as determined by an ophthalmologist or a physician skilled in diseases of the eye.

(2) "Department" means the department of administration.

(3) "Purchasing agency" means any state agency authorized by Title 18, chapter 4, to enter into contracts.

(4) "Responsible bidder" means a person who has the capability in all respects to fully perform the requirements of a contract and has the integrity and reliability that assure good faith performance.

(5) (a) "State property" means a building or portion of a building or other real property that is:

(i) owned or leased by the state or an agency of the state;

(ii) utilized in the conduct of state matters; and

(iii) occupied principally by state employees.

(b) State property does not include vocational institutions or institutions of higher education.

(6) "Vending facility" means the area and equipment, including vending machines, on state property which are utilized in providing a food or beverage service to employees and other persons present on the property.

(7) "Vending machine" means a device for the dispensing of foodstuffs, liquids, or other products when money is inserted into the device. Vending machine does not include a postage stamp machine, photocopy machine, or coin-operated telephone.

History: En. Sec. 1, Ch. 36, Sp. L. June 1986.

18-5-502. Preference to blind persons. (1) Whenever state property is proposed to be made available to private persons for use as a vending facility, if two or more substantially equal proposals submitted by responsible bidders are determined to most closely meet the purchasing agency's specifications and if one of the proposals has been submitted by a blind person, the contract must be awarded to the blind person.

(2) For purposes of this section, proposals are substantially equal if their overall ratings, as determined by the purchasing agency in accordance with the request for proposal, do not differ by more than 3%.

(3) Any contract awarded pursuant to this section to a blind person must prohibit transfer of the contract by sublease, assignment, or any other method.

History: En. Sec. 2, Ch. 36, Sp. L. June 1986.

18-5-503. Application of state procurement law. Procurement under this part is subject to all other statutes governing state procurement except that in case of conflict the provisions of this part apply.

History: En. Sec. 4, Ch. 36, Sp. L. June 1986.

Cross-References

Procurement generally, Title 18, ch. 4.

18-5-504. Blind preference rules. The department shall adopt rules to implement this part.

History: En. Sec. 5, Ch. 36, Sp. L. June 1986.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Part 6
Nonvisual Access Technology Procurement

18-5-601. Findings — policy. (1) The legislature finds that:

(a) the advent of the information age throughout the United States and around the world has resulted in lasting changes in information technology;

(b) the use of interactive visual display terminals by the state is becoming a widespread means of access for public employees and the public to obtain information available electronically, but nonvisual access, whether by speech, Braille, or other appropriate means, has not been systematically incorporated into the procurement process for new information technology;

(c) presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life, such as education and employment;

(d) alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and the use of the information presented are possible by both visual and nonvisual means;

(e) the goals of the state in obtaining and deploying new forms of technology properly include universal access so that segments of society with particular needs, including individuals who are unable to use visual displays, will not be left out of the information age; and

(f) although access to programs, technology, and information is provided for under other state and federal law and, in many instances, compels the installation and availability of nonvisual technology adaptations, access to information technology is most effectively accomplished at the point of procurement, ensuring that funds are expended on information technology designed to be readily adaptable for nonvisual access.

(2) It is the policy of this state that all state programs and activities be conducted in accordance with the following principles:

(a) Individuals who are blind or visually impaired have the right to full participation in the life of the state, including the use of information technology that is provided by the state for use by employees, program participants, and the public.

(b) Technology purchased in whole or in part with funds provided by the state that is to be used for the creation, storage, retrieval, or dissemination of information and that is intended for use by employees, program participants, and the public must be accessible to and usable by individuals who are blind or visually impaired.

History: En. Sec. 1, Ch. 429, L. 2001.

18-5-602. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology.

(2) "Blind or visually impaired" means an individual who has:

(a) a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(b) a medically indicated expectation of visual deterioration; or

(c) a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability.

(3) "Information technology" means all electronic information processing hardware and software, including telecommunications.

(4) "Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

(5) "Readily adaptable" means that all critical components of information may be rendered by the information technology in equivalent nonvisual formats and that the installation or operation of software or hardware adaptations for speech, Braille, or other nonvisual formats do not require extraordinary alterations to the information technology.

(6) "State agency" means a department, board, commission, office, bureau, institution, university system entity, or unit of state government recognized in the state budget.

(7) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.

(8) "Undue burden" means compliance may be accomplished only by incurring an undue financial or administrative burden or by fundamentally altering a program or activity.

History: En. Sec. 2, Ch. 429, L. 2001.

18-5-603. Nonvisual access ensured. When information technology equipment and software are procured for use by employees, program participants, or members of the public, the state agency head shall ensure that the equipment or software:

(1) provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired;

(2) is designed to present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; and

(3) has been purchased under a contract that includes the technology access clause required by 18-5-604.

History: En. Sec. 3, Ch. 429, L. 2001.

18-5-604. Procurement requirements. (1) The technology access clause, referred to in 18-5-603(3), must be developed by the department of administration and must require compliance with nonvisual access standards developed by the state. The access clause and the nondiscrimination language required in 49-3-207 must be inserted in all contracts for the procurement of information technology by, or for the use of, state agencies.

(2) The nonvisual access standards developed pursuant to subsection (1) must include specifications that are necessary to fulfill the assurances contained in 18-5-603 and must include the following minimum specifications:

(a) Effective, interactive control and use of the technology, including the operating system, applications programs, and format of the data presented, are readily adaptable to nonvisual means.

(b) The technology equipped for nonvisual access must be compatible with information technology used by other individuals with whom the blind or visually impaired individual may interact or exchange electronic information.

(c) Nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public.

(d) The technology for nonvisual access must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

History: En. Sec. 4, Ch. 429, L. 2001.

18-5-605. Implementation. (1) For the purposes of ensuring the effective phasing in of nonvisual access technology procurement, the head of any state agency may not approve exclusion of the technology access clause required by 18-5-604 from any contract with respect to the compatibility of standard operating systems and software with nonvisual access software and peripheral devices or with respect to the initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(2) This section does not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

(3) Notwithstanding subsection (2), the applications programs and underlying operating systems, including the format of the data, used for the manipulation and presentation of information must permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Compliance with this part with regard to information technology purchased prior to July 1, 2001, must be achieved at the time of procurement of an upgrade or replacement of existing equipment or software.

(5) A state agency may be exempted from the provisions of this part if the state agency makes a good faith determination that compliance would result in an undue burden.

History: En. Sec. 5, Ch. 429, L. 2001; amd. Sec. 40, Ch. 2, L. 2009.

CHAPTER 6
SALES

Part 1 — Sale of State Property

18-6-101. Power to sell state property — proceeds credited to general fund.
18-6-102. Interagency transfers.
18-6-103. Highway equipment by bid.

Chapter Cross-References

Contract for sale, Title 30, ch. 11, part 1.
Seller's rights and obligations, Title 30, ch. 11, part 2.
Sale of state lands, Title 77, ch. 2, part 3.

Part 1
Sale of State Property

18-6-101. Power to sell state property — proceeds credited to general fund. (1) The department has exclusive power, subject to the approval of the governor, to sell or otherwise dispose of or to authorize the sale or other disposition of all materials and supplies, service equipment, or other personal property of any kind owned by the state but not needed or used by any state institution or by any department of state government. Upon request, the department shall authorize a state department or entity to donate property to a school district for classroom use pursuant to procedures implemented by the office of public instruction to ensure adequate notice of the availability of surplus state property and equal access and fair distribution of the property to school districts.

(2) Unless otherwise provided by law, the department shall credit the general fund with all money received.

(3) Whenever the personal property was accounted for in an enterprise or internal service fund or designated subfund account, the proceeds of the sale must be credited to the appropriate enterprise or internal service fund or designated subfund account.

History: En. Sec. 4, Ch. 66, L. 1923; re-en. Sec. 293.4, R.C.M. 1935; amd. Sec. 74, Ch. 199, L. 1965; amd. Sec. 1, Ch. 11, L. 1971; amd. Sec. 68, Ch. 326, L. 1974; R.C.M. 1947, 82-1914(part); amd. Sec. 4, Ch. 58, L. 1979; amd. Sec. 1, Ch. 346, L. 1981; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 2, Ch. 234, L. 1991; amd. Sec. 3, Ch. 441, L. 1999.

Cross-References

Rights to property, 2-15-132.
Inventory — property to be charged to receiving agency, 2-17-202.
Fund structure, 17-2-102.

18-6-102. Interagency transfers. If a state institution or agency needs and requests the materials, etc., to be disposed of, that institution or agency, upon the approval of the governor, may receive the materials, etc., requested.

History: En. Sec. 4, Ch. 66, L. 1923; re-en. Sec. 293.4, R.C.M. 1935; amd. Sec. 74, Ch. 199, L. 1965; amd. Sec. 1, Ch. 11, L. 1971; amd. Sec. 68, Ch. 326, L. 1974; R.C.M. 1947, 82-1914(part).

Cross-References

Rights to property, 2-15-132.
Inventory — property to be charged to receiving agency, 2-17-202.
Authority of Department of Justice to dispose of equipment, 44-1-106.

18-6-103. Highway equipment by bid. All sales of highway equipment shall be by public auction or sealed bids, and all proceeds received by the department from the sale of all material, supplies, equipment, and all other personal property of the department of transportation shall be placed in the highway account of the state special revenue fund or in the appropriate enterprise or internal service fund account.

History: En. Sec. 4, Ch. 66, L. 1923; re-en. Sec. 293.4, R.C.M. 1935; amd. Sec. 74, Ch. 199, L. 1965; amd. Sec. 1, Ch. 11, L. 1971; amd. Sec. 68, Ch. 326, L. 1974; R.C.M. 1947, 82-1914(2); amd. Sec. 1, Ch. 35, L. 1981; amd. Secs. 1, 3, Ch. 277, L. 1983; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

Rights to property, 2-15-132.
Inventory — property to be charged to receiving agency, 2-17-202.
Department of Transportation — sale of personal property and printed matter, 60-4-206.

CHAPTER 7
PRINTING AND LEGAL NOTICES

Part 1 — State Printing

18-7-101. Power to contract for printing — exceptions.
18-7-102. Repealed.
18-7-103. Repealed.
18-7-104. Union label.
18-7-105. Penalty.
18-7-106. Approval of purchase orders.
18-7-107. State printing, binding, and stationery work.
18-7-108 through 18-7-110 reserved.
18-7-111. Repealed.
18-7-112. Repealed.
18-7-113. Repealed.

Part 2 — Publication of Legal Notices

18-7-201. Requirements for choice of newspaper — price.
18-7-202. Lower rates permissible.
18-7-203. Folio measurement.
18-7-204. Affidavit of printer — allowance of claims.
18-7-205. Penalty for false affidavit or overcharge.

Part 3 — Control of State Printing

18-7-301. Short title.
18-7-302. Definitions.
18-7-303. Repealed.
18-7-304. Department to prepare standards.
18-7-305. Repealed.
18-7-306. Public disclosure of costs.
18-7-307. Estimation of costs.

Part 4 — County Printing

18-7-401. Purpose of part.
18-7-402. Definition.
18-7-403. Repealed.
18-7-404. Establishment of maximum prices — rulemaking.
18-7-405. Adoption of printing standards.
18-7-406 through 18-7-410 reserved.
18-7-411. County advertising — contract.
18-7-412. County printing contract.
18-7-413. Competitive bids required.
18-7-414. Exemption for county fairs.

Chapter Cross-References

Printing of voter information pamphlets, 13-27-410.
Failure to make timely payment — interest assessed on amounts due, 17-8-242.
County printing contracts, 18-7-411.
Gifts to public servants having discretionary function in contract letting, 45-7-104.

Part 1
State Printing

Part Cross-References

Printing defined, 1-1-203.
Publication of MCA, 1-11-301.
Publication and arrangement of Administrative Rules of Montana, 2-4-311.
Printing of Supreme Court decisions, 3-2-603.
Printing of Session Laws, 5-11-202.

18-7-101. Power to contract for printing — exceptions. (1) Except as provided in 1-11-301, 16-12-104, and 16-12-503, the department has exclusive power, subject to the approval of the governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive), agency, or institution.

(2) The department shall supervise and attend to all public printing of the state as provided in this chapter and shall prevent duplication and unnecessary printing.

(3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter, for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

(4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes of external marketing or educational materials.

History: En. Sec. 6, Ch. 66, L. 1923; re-en. Sec. 293.6, R.C.M. 1935; amd. Sec. 7, Ch. 80, L. 1961; amd. Sec. 9, Ch. 261, L. 1967; amd. Sec. 43, Ch. 93, L. 1969; amd. Sec. 71, Ch. 326, L. 1974; R.C.M. 1947, 82-1916; amd. Sec. 5, Ch. 58, L. 1979; amd. Sec. 1, Ch. 265, L. 1979; amd. Sec. 1, Ch. 209, L. 1989; amd. Sec. 6, Ch. 314, L. 2001; amd. Sec. 2, Ch. 292, L. 2019; amd. Sec. 61, Ch. 576, L. 2021.

Cross-References

State library, Title 22, ch. 1, part 2.

18-7-102. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 1, Ch. 153, L. 1935; re-en. Sec. 283.1, R.C.M. 1935; R.C.M. 1947, 82-1157; amd. Sec. 6, Ch. 58, L. 1979; amd. Sec. 2, Ch. 265, L. 1979.

18-7-103. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 1, p. 58, L. 1897; re-en. Sec. 254, Rev. C. 1907; re-en. Sec. 260, R.C.M. 1921; re-en. Sec. 260, R.C.M. 1935; amd. Sec. 1, Ch. 242, L. 1963; R.C.M. 1947, 82-1137(part); amd. Sec. 3, Ch. 265, L. 1979.

18-7-104. Union label. All printing for which the state of Montana is chargeable shall bear the label of the branch of the international typographical union, the allied printing trades council, or the amalgamated lithographers of America of the locality in which it is printed, except under the following conditions. Printing firms not having the use of the labels and who are desirous of presenting bids for printing as enumerated above shall be required to establish consideration as a responsible bidder as follows:

(1) As a condition to consideration as a responsible bidder, printing concerns must file with the secretary of state a sworn statement to the effect that employees in the employ of the concern which is to produce such printing are receiving the prevailing wage rate and are working under conditions prevalent in the locality in which the work is produced.

(2) Whenever a collective bargaining agreement is in effect between an employer and employees who are represented by a responsible organization which is in no way influenced or controlled by the management, such agreement and its provisions shall be construed as conditions prevalent in said locality and shall be the minimum requirement for being adjudged a responsible bidder under this section, 18-7-107, or chapter 4 of this title.

(3) Printing firms having the use of the union labels as set forth above shall be deemed as having complied with the provisions of this section, 18-7-107, or chapter 4 of this title, but nothing in these provisions shall be construed as exempting such bidders from any provisions of this section, 18-7-107, or chapter 4 of this title, and such bidders shall also be required to conform to all provisions thereof.

History: En. Sec. 1, p. 58, L. 1897; re-en. Sec. 254, Rev. C. 1907; re-en. Sec. 260, R.C.M. 1921; re-en. Sec. 260, R.C.M. 1935; amd. Sec. 1, Ch. 242, L. 1963; R.C.M. 1947, 82-1137(part); amd. Sec. 48, Ch. 519, L. 1983.

Cross-References

Wages and wage protection, Title 39, ch. 3.

General limitations on collective bargaining rights, Title 39, ch. 33.

18-7-105. Penalty. Any officer of the state who shall accept any printed matter for which the state is chargeable in whole or in part or who is found to have had printed matter produced, under conditions other than as set forth in chapter 4 of this title, 18-7-104, or 18-7-107 shall be subject to a fine of $50 for each and every offense.

History: En. Sec. 1, p. 58, L. 1897; re-en. Sec. 255, Rev. C. 1907; re-en. Sec. 261, R.C.M. 1921; re-en. Sec. 261, R.C.M. 1935; amd. Sec. 2, Ch. 242, L. 1963; R.C.M. 1947, 82-1138; amd. Sec. 49, Ch. 519, L. 1983.

18-7-106. Approval of purchase orders. The department may not approve a claim for printing submitted by a state officer, agency, or institution unless:

(1) a purchase order has been prepared and approved by the department prior to ordering the printing; or

(2) written approval has been given by the department to order the printing without preparation of a purchase order.

History: En. Sec. 10, Ch. 197, L. 1921; re-en. Sec. 293, R.C.M. 1921; re-en. Sec. 293, R.C.M. 1935; amd. Sec. 1, Ch. 15, L. 1969; Sec. 82-1910, R.C.M. 1947; amd. and redes. 82-1916.1 by Sec. 65, Ch. 326, L. 1974; R.C.M. 1947, 82-1916.1.

Cross-References

Reappropriation of encumbered obligations at end of each fiscal year, 17-7-303.

Expenditure procedures — quarterly allotment system, 17-8-102.

18-7-107. State printing, binding, and stationery work. All printing, binding, and stationery work for the state of Montana is subject to the preference in 18-1-102(1)(b). Federal exemptions as specified in 18-1-102(2)(b) apply.

History: En. Sec. 46, Ch. 519, L. 1983; amd. Sec. 1, Ch. 95, L. 1987; amd. Sec. 1, Ch. 53, L. 1991; amd. Sec. 24, Ch. 181, L. 2001.

Cross-References

State printing, 18-4-221.

18-7-108 through 18-7-110 reserved.

18-7-111. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 1, Ch. 178, L. 1921; re-en. Sec. 281, R.C.M. 1921; re-en. Sec. 281, R.C.M. 1935; R.C.M. 1947, 82-1154.

18-7-112. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 2, Ch. 178, L. 1921; re-en. Sec. 282, R.C.M. 1921; re-en. Sec. 282, R.C.M. 1935; R.C.M. 1947, 82-1155.

18-7-113. Repealed. Sec. 53, Ch. 519, L. 1983.

History: En. Sec. 3, Ch. 178, L. 1921; re-en. Sec. 283, R.C.M. 1921; re-en. Sec. 283, R.C.M. 1935; R.C.M. 1947, 82-1156.

Part 2
Publication of Legal Notices

Part Cross-References

County printing, Title 18, ch. 7, part 4.

18-7-201. Requirements for choice of newspaper — price. (1) In all cases and instances where any publication is required by law or is duly authorized to be made, executed, or accomplished by, for, or on behalf of the state of Montana or any of the institutions of said state or any of the departments, boards, bureaus, or commissions thereof or any of the officers, agents, or employees of the state when acting within the scope of their lawful authority and for the benefit of the state of Montana, the same shall be published in a newspaper printed and published in the state of Montana and of general bona fide and paid circulation with second-class mailing privilege and having been printed and published continuously in the state of Montana for at least 12 months immediately preceding such publication.

(2) The price for such publication and by whomsoever accomplished shall not exceed the minimum going rate charged any other advertiser for the same publication set in the same sized type and published for the same number of insertions.

History: En. Sec. 1, Ch. 157, L. 1921; re-en. Sec. 276, R.C.M. 1921; re-en. Sec. 276, R.C.M. 1935; amd. Sec. 1, Ch. 137, L. 1951; amd. Sec. 1, Ch. 307, L. 1969; amd. Sec. 1, Ch. 385, L. 1973; R.C.M. 1947, 82-1149.

Cross-References

Publication of audits, 2-7-521.
Publication of notice to be once a week, 25-3-502, 25-3-503.
Effect of service by publication upon unknown persons, 25-3-505.
Notice of sale on execution, 25-13-701.

18-7-202. Lower rates permissible. The prices, rates, and standards herein fixed and prescribed are in each instance and for every case covered by this part the maximum prices, rates, and standards. Their prescription and establishment herein shall in no case be taken as prohibiting a lesser or lower rate or price than herein fixed. Every department, institution, officer, or agent of the state shall, whenever possible, obtain a lower rate or price than is fixed herein, the equivalent of the minimum rate mentioned in 18-7-204.

History: En. Sec. 3, Ch. 157, L. 1921; re-en. Sec. 278, R.C.M. 1921; re-en. Sec. 278, R.C.M. 1935; R.C.M. 1947, 82-1151.

18-7-203. Folio measurement. (1) The following is the basis of measurement for the computation of folios in the various sizes of type, when set in a column 13 ems pica wide, and constitutes a folio within the meaning of this part:

(a) 12 lines of 6-point type;
(b) 14 lines of 7-point type;
(c) 16 lines of 8-point type;
(d) 18 lines of 9-point type; or
(e) 20 lines of 10-point type.

(2) A carefully verified actual count shall be made of the folio.

History: En. Sec. 2, Ch. 157, L. 1921; re-en. Sec. 277, R.C.M. 1921; re-en. Sec. 277, R.C.M. 1935; amd. Sec. 3, Ch. 97, L. 1977; R.C.M. 1947, 82-1150.

Cross-References

Folio defined, 1-1-203.

18-7-204. Affidavit of printer — allowance of claims. No claim against the state for legal advertising or any of the publications covered by this part shall be allowed unless there is attached to said claim the certification of the publisher or printer (in the case of corporations or quasi-corporations by the business or advertising manager thereof) properly executed, setting forth that the price or rate charged the state of Montana for the publication for which claim is made is not in excess of the minimum rate charged any other advertiser for publication or advertisement set in the same sized type and published for the same number of insertions. It is hereby declared to be unlawful to make any claim against or to charge or attempt to charge the state of Montana for any publication in excess of the minimum going rate charged any other advertiser for the same publication set in the same sized type and published for the same number of insertions.

History: En. Sec. 4, Ch. 157, L. 1921; re-en. Sec. 279, R.C.M. 1921; re-en. Sec. 279, R.C.M. 1935; amd. Sec. 9, Ch. 97, L. 1961; R.C.M. 1947, 82-1152.

Cross-References

Affidavit of printer or publisher as evidence of publication, 26-1-1011.
Affidavit of publication — where filed — prima facie evidence, 26-1-1012.

18-7-205. Penalty for false affidavit or overcharge. Any person or any corporation or any firm or any quasi-corporation who shall violate any provision of this part or swear falsely hereunder or charge or attempt to charge the state of Montana in excess of the prices and rates herein fixed or in any manner circumvent or attempt to circumvent this part or aid or abet any other person, firm, corporation, or quasi-corporation in offense against this part shall be guilty of a misdemeanor and shall on conviction for the first offense be fined not more than $100 or be imprisoned in the county jail for not more than 3 months or both such fine and imprisonment, in the discretion of the court, and shall on conviction for each subsequent offense be fined not more than $300 or be imprisoned in the county jail for not more than 6 months or both such fine and imprisonment in the discretion of the court.

History: En. Sec, 5, Ch. 157, L. 1921; re-en. Sec. 280, R.C.M. 1921; re-en. Sec. 280, R.C.M. 1935; R.C.M. 1947, 82-1153.

Cross-References

Classification of offenses, 45-1-201.
Misdemeanor defined, 45-2-101.
False swearing, 45-7-202.

Part 3
Control of State Printing

18-7-301. Short title. This part may be cited as the "State Printing Control Act".

History: En. Sec. 1, Ch. 646, L. 1979.

18-7-302. Definitions. As used in this part, the following definitions apply:

(1) "Agency" means each state office, department, board, commission, council, committee, unit of the university system, or other entity or instrumentality of the executive branch, office of the legislative branch, or office of the judicial branch of state government.

(2) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(3) "Public document" means any publication of an agency that is meant for dissemination to the public, but does not include educational materials published by a unit of the university system or the superintendent of public instruction, reports of the legislative auditor, travel promotion materials, standard forms, bid specifications, opinions of the attorney general, opinions of the supreme court, session laws, the Administrative Rules of Montana, the Montana Code Annotated, or regular periodical publications sold to the general public solely through subscription and newsstand sale.

History: En. Sec. 2, Ch. 646, L. 1979; amd. Sec. 1, Ch. 148, L. 2011.

Cross-References

Public records, Title 2, ch. 6.

18-7-303. Repealed. Sec. 3, Ch. 148, L. 2011.

History: En. Sec. 3, Ch. 646, L. 1979; amd. Sec. 24, Ch. 112, L. 1991; amd. Sec. 24, Ch. 349, L. 1993.

18-7-304. Department to prepare standards. The department may prepare recommended standards for state printing of public documents.

History: En. Sec. 4, Ch. 646, L. 1979.

18-7-305. Repealed. Sec. 3, Ch. 148, L. 2011.

History: En. Sec. 5, Ch. 646, L. 1979.

18-7-306. Public disclosure of costs. Each agency shall include a public disclosure of costs on all public documents. The public disclosure must contain the following statement, with required information inserted, to be printed on the exterior cover of the publication: "... copies of this public document were published at an estimated cost of $... per copy, for a total cost of $..., which includes $... for printing and $... for distribution." This statement must be printed in the same size type as the text of the document and must be set in a box composed of a 1-point rule. If the cost of publication cannot be reasonably estimated at the time of publication, the publications must contain the following statement on the exterior cover in lieu of the statement concerning estimated cost: "This document printed at state expense. Information on the cost of publication may be obtained by contacting the department of administration."

History: En. Sec. 6, Ch. 646, L. 1979; amd. Sec. 2, Ch. 148, L. 2011.

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

18-7-307. Estimation of costs. The following factors shall be utilized in estimating cost data:

(1) printing, including all expenditures for production, whether on bid or in-house; and

(2) circulation, including all expenditures for postage and for salaries of agency or department personnel involved in distribution of the public document.

History: En. Sec. 7, Ch. 646, L. 1979.

Part 4
County Printing

18-7-401. Purpose of part. The purpose of this part is to provide:

(1) for the department of administration to set maximum prices that may be charged for county legal advertising; and

(2) for the purchase of county printed forms and materials.

History: En. Sec. 2, Ch. 280, L. 1967; amd. Sec. 57, Ch. 348, L. 1974; R.C.M. 1947, 16-1226; amd. Sec. 1, Ch. 507, L. 1995; Sec. 7-5-2401, MCA 2007; redes. 18-7-401 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 1, Ch. 166, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 1, Ch. 166, L. 2025. Amendment effective October 1, 2025.

Transition: Section 6, Ch. 166, L. 2025, provided: "A person appointed to the board of county printing shall serve until [the effective date of this act]." Effective October 1, 2025.

18-7-402. Definition. Unless the context requires otherwise, in this part "department" means the department of administration provided for in 2-15-1001.

History: En. 16-1226.1 by Sec. 58, Ch. 348, L. 1974; R.C.M. 1947, 16-1226.1; amd. Sec. 4, Ch. 274, L. 1981; Sec. 7-5-2402, MCA 2007; redes. 18-7-402 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 2, Ch. 166, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 2, Ch. 166, L. 2025. Amendment effective October 1, 2025.

Transition: Section 6, Ch. 166, L. 2025, provided: "A person appointed to the board of county printing shall serve until [the effective date of this act]." Effective October 1, 2025.

18-7-403. Repealed. Sec. 5, Ch. 166, L. 2025.

History: En. Sec. 5, Ch. 280, L. 1967; amd. Sec. 60, Ch. 348, L. 1974; R.C.M. 1947, 16-1229(1); amd. Sec. 2, Ch. 507, L. 1995; Sec. 7-5-2403, MCA 2007; redes. 18-7-403 by Sec. 2, Ch. 148, L. 2009.

18-7-404. Establishment of maximum prices — rulemaking. (1) The maximum prices to be charged for county legal advertising is $14 for each folio for the first insertion, with a follow-on rate of $12 for each folio for any subsequent insertion.

(2) (a) The department shall annually adjust the maximum prices in subsection (1) using the lower of an inflation factor of 2% or the actual inflation determined by the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor. The adjusted prices become effective on March 1 of each year.

(b) The department shall publish the adjusted prices as a rule.

(3) The department shall deliver, free of charge, to each board of county commissioners in this state a copy of every schedule of maximum prices adopted by the department within 30 days of its publication.

(4) The county commissioners shall require each establishment that prints county legal advertising to verify that:

(a) the legal advertisement was published on the dates ordered by the county and in the style set by the department; and

(b) the price was not in excess of the maximum price set by the department.

(5) The department may not establish maximum prices for printed county forms.

History: En. Sec. 5, Ch. 280, L. 1967; amd. Sec. 60, Ch. 348, L. 1974; R.C.M. 1947, 16-1229(2), (4), (5); amd. Sec. 3, Ch. 507, L. 1995; amd. Sec. 1, Ch. 148, L. 2009; Sec. 7-5-2404, MCA 2007; redes. 18-7-404 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 3, Ch. 166, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 3, Ch. 166, L. 2025. Amendment effective October 1, 2025.

Transition: Section 6, Ch. 166, L. 2025, provided: "A person appointed to the board of county printing shall serve until [the effective date of this act]." Effective October 1, 2025.

18-7-405. Adoption of printing standards. The department shall adopt necessary standards for typeface, type size, type style, and type leading for county legal advertising.

History: En. Sec. 5, Ch. 280, L. 1967; amd. Sec. 60, Ch. 348, L. 1974; R.C.M. 1947, 16-1229(3); amd. Sec. 4, Ch. 507, L. 1995; Sec. 7-5-2405, MCA 2007; redes. 18-7-405 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 4, Ch. 166, L. 2025.

Compiler's Comments

2025 Amendment: See 2025 Session Law for amendment made by sec. 4, Ch. 166, L. 2025. Amendment effective October 1, 2025.

Transition: Section 6, Ch. 166, L. 2025, provided: "A person appointed to the board of county printing shall serve until [the effective date of this act]." Effective October 1, 2025.

18-7-406 through 18-7-410 reserved.

18-7-411. County advertising — contract. (1) The county commissioners shall contract for all advertising required by law. The advertising required by law must be awarded to a newspaper that:

(a) is published in the county;

(b) has general circulation;

(c) has been published continuously at least once a week in the county for the 12 months preceding the awarding of the contract; and

(d) prior to July 1 of each year, has submitted to the clerk and recorder a sworn statement that includes:

(i) circulation for the prior 12 months;

(ii) a statement of net distribution;

(iii) itemization of the circulation that is paid and that is free; and

(iv) the method of distribution.

(2) A newsletter or other document produced or published by the local government unit is not considered a newspaper that has general circulation as provided in subsection (1).

(3) The term of a contract for county legal advertising may not exceed a period of 2 years.

History: En. Sec. 6, Ch. 280, L. 1967; amd. Sec. 1, Ch. 418, L. 1973; amd. Sec. 61, Ch. 348, L. 1974; R.C.M. 1947, 16-1230; amd. Sec. 3, Ch. 364, L. 1979; amd. Sec. 1, Ch. 70, L. 1981; amd. Sec. 1, Ch. 393, L. 1981; amd. Sec. 1, Ch. 152, L. 1985; amd. Sec. 1, Ch. 305, L. 1989; amd. Sec. 5, Ch. 507, L. 1995; amd. Sec. 2, Ch. 439, L. 2007; Sec. 7-5-2411, MCA 2007; redes. 18-7-411 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 13, Ch. 372, L. 2017.

Cross-References

County contracts — competitive bidding, Title 7, ch. 5, part 23.

18-7-412. County printing contract. (1) The contract must be let to the printing establishment that in the judgment of the county commissioners is the most suitable for performing the work. The county commissioners shall require a contractor to perform the county printing contract subject to the requirements of Title 18, chapter 1, part 2.

(2) Contracts for printed forms and materials may be awarded on an annual basis or may be awarded for a specific printing job. The term of a contract for county printing may not exceed a period of 2 years.

(3) (a) The county clerk and recorder shall maintain a list of willing bidders for county printing and shall notify the printing establishments on the list of any call for bids.

(b) A printing establishment must be added to the county clerk and recorder's list when the clerk and recorder receives a written request from the printing establishment.

(c) The county clerk and recorder may delete the name of any printing establishment from the list if it has not submitted a bid during the previous 365 days.

(4) This part may not be construed to compel the acceptance of unsatisfactory work.

History: En. Sec. 7, Ch. 280, L. 1967; amd. Sec. 2, Ch. 418, L. 1973; R.C.M. 1947, 16-1231(part); amd. Sec. 2, Ch. 152, L. 1985; amd. Sec. 6, Ch. 507, L. 1995; Sec. 7-5-2412, MCA 2007; redes. 18-7-412 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 14, Ch. 372, L. 2017.

18-7-413. Competitive bids required. The board of county commissioners shall call for competitive bids:

(1) from persons or firms qualified to bid on county printing under the terms of this part; or

(2) for county legal advertising if there is more than one legally qualified newspaper in the county.

History: En. Sec. 8, Ch. 280, L. 1967; amd. Sec. 3, Ch. 418, L. 1973; R.C.M. 1947, 16-1232; amd. Sec. 7, Ch. 507, L. 1995; Sec. 7-5-2413, MCA 2007; redes. 18-7-413 by Sec. 2, Ch. 148, L. 2009; amd. Sec. 15, Ch. 372, L. 2017.

Cross-References

County contracts — competitive bidding, Title 7, ch. 5, part 23.

18-7-414. Exemption for county fairs. None of the provisions of this part applies to any printing or advertising that may be required in connection with the holding of county fairs and expositions.

History: En. Sec. 9, Ch. 280, L. 1967; amd. Sec. 62, Ch. 348, L. 1974; R.C.M. 1947, 16-1233; Sec. 7-5-2414, MCA 2007; redes. 18-7-414 by Sec. 2, Ch. 148, L. 2009.

Cross-References

County fairs, Title 7, ch. 21, part 34.

CHAPTER 8
PROCUREMENT OF SERVICES

Part 1 — Consultants (Repealed)

Part 2 — Architectural, Engineering, and Land Surveying Services

18-8-201. Statement of policy.
18-8-202. Definitions.
18-8-203. Public notice of agency requirements.
18-8-204. Procedures for selection.
18-8-205. Negotiation of contract for services.
18-8-206 through 18-8-209 reserved.
18-8-210. Energy performance contracts exempt.
18-8-211. Coordination with other statutes.
18-8-212. Exception.

Part 1
Consultants
(Repealed)

18-8-101. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 1, Ch. 547, L. 1981.

18-8-102. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 2, Ch. 547, L. 1981.

18-8-103. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 3, Ch. 547, L. 1981; amd. Sec. 1, Ch. 215, L. 1983; amd. Sec. 1, Ch. 231, L. 1985; amd. Sec. 2, Ch. 548, L. 1989; amd. Sec. 2, Ch. 630, L. 1993; amd. Sec. 3, Ch. 359, L. 1995.

18-8-104. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 4, Ch. 547, L. 1981.

18-8-105. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 6, Ch. 547, L. 1981; amd. Sec. 1, Ch. 509, L. 1983.

18-8-106. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 7, Ch. 547, L. 1981.

18-8-107 through 18-8-110 reserved.

18-8-111. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 5, Ch. 547, L. 1981.

18-8-112. Repealed. Sec. 21, Ch. 443, L. 1997.

History: En. Sec. 8, Ch. 547, L. 1981.

Part 2
Architectural, Engineering, and Land Surveying Services

Part Cross-References

Policy regarding practice of architecture — construction contracts, 18-2-111 through 18-2-114.

18-8-201. Statement of policy. The legislature hereby establishes a state policy that governmental agencies publicly announce requirements for architectural, engineering, and land surveying services and negotiate contracts for such professional services on the basis of

demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices.

History: En. Sec. 1, Ch. 51, L. 1987.

18-8-202. Definitions. Unless the context clearly indicates otherwise, in this part, the following definitions apply:

(1) "Agency" means a state agency, local agency, or special district.

(2) "Architectural, engineering, and land surveying" means services rendered by a person, other than as an employee of an agency, contracting to perform activities within the scope of the general definition of professional practice and licensed for the respective practice as an architect pursuant to Title 37, chapter 65, or an engineer or land surveyor pursuant to Title 37, chapter 67.

(3) "Licensed professional" or "licensed architect, professional engineer, professional land surveyor" means a person providing professional services who is not an employee of the agency for which the services are provided.

(4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port district or authority, airport authority, political subdivision of any type, or any other entity or authority of local government, in corporate form or otherwise.

(5) "Person" means an individual, organization, group, association, partnership, firm, joint venture, or corporation.

(6) "Special district" means a unit of local government, other than a city, town, or county, authorized by law to perform a single function or a limited number of functions, including but not limited to water districts, irrigation districts, fire districts, fire service areas, school districts, community college districts, hospital districts, sewer districts, and transportation districts.

(7) "State agency" means a department, agency, commission, bureau, office, or other entity or authority of state government.

History: En. Sec. 2, Ch. 51, L. 1987; amd. Sec. 49, Ch. 51, L. 1999; amd. Sec. 5, Ch. 449, L. 2007.

18-8-203. Public notice of agency requirements. Each agency shall publish in advance its requirement for professional services. The announcement must state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who can provide further details. An agency may comply with this section by:

(1) publishing an announcement on each occasion when professional services provided by a licensed professional are required by the agency; or

(2) announcing generally to the public its projected requirement for any category or type of professional services.

History: En. Sec. 3, Ch. 51, L. 1987.

18-8-204. Procedures for selection. (1) In the procurement of architectural, engineering, and land surveying services, the agency may encourage firms engaged in the lawful practice of their profession to submit annually or biennially a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

(2) (a) The agency shall then select, based on criteria established under agency procedures and guidelines and the law, the firm considered most qualified to provide the services required for the proposed project.

(b) The agency procedures and guidelines must be available to the public and include at a minimum the following criteria as they relate to each firm:

(i) the qualifications of professional personnel to be assigned to the project;

(ii) capability to meet time and project budget requirements;

(iii) location;

(iv) present and projected workloads;

(v) related experience on similar projects; and

(vi) recent and current work for the agency.

(c) The agency shall follow the minimum criteria of this part if no other agency procedures are specifically adopted.

(3) After conducting an evaluation of firms pursuant to subsections (1) and (2)(b), a local agency may enter into a contract with one or more of those firms to provide architectural, engineering, or land surveying services on an as-needed basis for one or more projects and for a term to be mutually agreed to by the parties. Nothing in this subsection prevents a local agency from following the procurement procedures in this part for professional services for a particular project, unless a contract made pursuant to this subsection provides otherwise.

(4) The provisions of this section do not apply to procurement of architectural, engineering, and land surveying services for projects that the transportation commission has approved pursuant to an alternative project delivery method under 60-2-120 or as part of the design-build contracting program authorized in 60-2-137.

History: En. Sec. 4, Ch. 51, L. 1987; amd. Sec. 5, Ch. 192, L. 2003; amd. Sec. 1, Ch. 56, L. 2007; amd. Sec. 1, Ch. 188, L. 2007; amd. Sec. 1, Ch. 308, L. 2017; amd. Sec. 3, Ch. 111, L. 2021; amd. Sec. 2, Ch. 145, L. 2023.

18-8-205. Negotiation of contract for services. (1) The agency shall negotiate a contract with the most qualified firm for architectural, engineering, and land surveying services at a price that the agency determines to be fair and reasonable. In making its determination, the agency shall take into account the estimated value of the services to be rendered, as well as the scope, complexity, and professional nature of the services.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm must be formally terminated and the agency shall select other firms in accordance with 18-8-204 and continue as directed in this section until an agreement is reached or the process is terminated.

(3) The provisions of this section do not apply to the negotiation of contracts for projects that the transportation commission has approved pursuant to an alternative project delivery method under 60-2-120 or as part of the design-build contracting program authorized in 60-2-137.

History: En. Sec. 5, Ch. 51, L. 1987; amd. Sec. 6, Ch. 192, L. 2003; amd. Sec. 2, Ch. 56, L. 2007; amd. Sec. 4, Ch. 111, L. 2021; amd. Sec. 3, Ch. 145, L. 2023.

18-8-206 through 18-8-209 reserved.

18-8-210. Energy performance contracts exempt. This part does not apply to solicitation and award of an investment grade energy audit or energy performance contract pursuant to Title 90, chapter 4, part 11, or to the construction or installation of conservation measures pursuant to the energy performance contract.

History: En. Sec. 12, Ch. 162, L. 2005.

18-8-211. Coordination with other statutes. (1) This part need not be complied with by an agency when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved. This part does not relieve the contracting authority from complying with applicable law limiting emergency expenditures.

(2) The limitation on the preparation of working drawings contained in 18-2-111 applies to this part.

(3) The procedure for appointment of architects and consulting engineers pursuant to 18-2-112 applies to this part, except that the agency shall select its proposed list of three architects or consulting engineers in accordance with this part prior to submission to the department of administration.

History: En. Sec. 6, Ch. 51, L. 1987; amd. Sec. 19, Ch. 443, L. 1997.

18-8-212. Exception. (1) All agencies securing architectural, engineering, and land surveying services for projects for which the fees are estimated not to exceed $50,000 may contract for those professional services by direct negotiation.

(2) Except as provided in 18-8-204(3), an agency may not separate service contracts or split or break projects for the purpose of circumventing the provisions of this part.

History: En. Sec. 7, Ch. 51, L. 1987; amd. Sec. 3, Ch. 22, L. 1993; amd. Sec. 7, Ch. 518, L. 1993; amd. Sec. 1, Ch. 162, L. 2003; amd. Sec. 2, Ch. 308, L. 2017.

CHAPTERS 9 AND 10
RESERVED

CHAPTER 11
STATE-TRIBAL COOPERATIVE AGREEMENTS

Part 1 — General Provisions

18-11-101. Short title — purpose.
18-11-102. Definitions.
18-11-103. Authorization to enter agreement — general contents.
18-11-104. Detailed contents of agreement.
18-11-105. Submission of agreement to attorney general.
18-11-106. Repealed.
18-11-107. Filing of agreement.
18-11-108. Revocation of agreement.
18-11-109. Authorization to appropriate funds for purpose of agreement.
18-11-110. Specific limitations on agreements.
18-11-111. Repealed.
18-11-112. Revenue account — administrative account — distribution of revenue.
18-11-113 through 18-11-120 reserved.
18-11-121. Authorization to become contracting employer in public employees' retirement system.

Chapter Cross-References
Jurisdiction on Indian lands, Title 2, ch. 1, part 3.

Part 1
General Provisions

18-11-101. Short title — purpose. (1) This chapter shall be known and may be cited as the "State-Tribal Cooperative Agreements Act".

(2) It is the intent of the legislature that this part be used to promote cooperation between the state or a public agency and a sovereign tribal government in mutually beneficial activities and services.

(3) It is the goal of the legislature to prevent the possibility of dual taxation by governments while promoting state, local, and tribal economic development.

History: **En. Sec. 1, Ch. 309, L. 1981; (2), (3)En. Sec. 1, Ch. 625, L. 1993.**

18-11-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

(2) "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in Montana exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians.

History: **En. Sec. 2, Ch. 309, L. 1981.**

18-11-103. Authorization to enter agreement — general contents. (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to:

(a) perform any administrative service, activity, or undertaking that a public agency or a tribal government entering into the contract is authorized by law to perform; and

(b) assess and collect or refund any tax or license or permit fee lawfully imposed by the state or a public agency and a tribal government and to share or refund the revenue from the assessment and collection.

(2) The agreement must be authorized and approved by the governing body of each party to the agreement. If a state agency is a party to an agreement, the governor or the governor's designee is the governing body.

(3) The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

(4) (a) Prior to entering into an agreement on taxation with a tribal government, a public agency shall provide public notice and hold a public meeting on the reservation whose government is a party to the proposed agreement for the purpose of receiving comments from and providing written and other information to interested persons with respect to the proposed agreement.

(b) At least 14 days but not more than 30 days prior to the date scheduled for the public meeting, a notice of the proposed agreement and public meeting must be published in a newspaper of general circulation in the county or counties in which the reservation is located.

(c) At the time the notice of the meeting is published, a synopsis of the proposed agreement must be made available to interested persons.

History: En. Sec. 3, Ch. 309, L. 1981; amd. Sec. 2, Ch. 625, L. 1993.

18-11-104. Detailed contents of agreement. (1) The agreement authorized by 18-11-103 must specify the following:

(a) its duration;

(b) the precise organization, composition, and nature of any separate legal entity created by the agreement;

(c) the purpose of the agreement;

(d) the manner of financing the agreement and establishing and maintaining a budget for the agreement;

(e) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination;

(f) provision for administering the agreement, which may include creation of a joint board responsible for administration;

(g) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(h) other necessary and proper matters.

(2) If an agreement involves law enforcement, it must also include:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement.

(3) If an agreement involves the assessment and collection or refund of a similar tax or license or permit fee by the state or a public agency and a tribal government, it must also include:

(a) the procedure for determining the amount of revenue to be shared by the state or a public agency and the tribal government;

(b) the administrative procedures for collection of the shared revenue;

(c) the minimum insurance or bonding, if any, required by the state or a public agency or the tribal government;

(d) a statement specifying the administrative expenses, if any, to be deducted pursuant to 18-11-112 by the collector of the tax or license or permit fee;

(e) a statement that the state or a public agency or the tribal government collecting the tax or license or permit fee is subject to an audit report by a mutually agreed upon auditor of the revenue collected and administrative expenses;

(f) a statement that the state or a public agency and the tribal government will cooperate to collect only one tax and will share or refund the revenue as specified in the agreement;

(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and

(h) a statement that the parties to the agreement are not forfeiting any legal rights to apply their respective taxes by entering into an agreement, except as specifically set forth in the agreement.

History: En. Sec. 4, Ch. 309, L. 1981; amd. Sec. 3, Ch. 625, L. 1993.

18-11-105. Submission of agreement to attorney general. (1) As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted under this chapter unless the attorney general finds that the agreement is not in proper form, does not meet the requirements set forth in this chapter, or otherwise does not conform to the laws of Montana. If the attorney general disapproves an agreement, the attorney general shall provide a detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for disapproval.

(3) If the attorney general does not disapprove the agreement within 30 days after its submission, it must be considered approved.

History: En. Sec. 5, Ch. 309, L. 1981; amd. Sec. 228, Ch. 56, L. 2009.

18-11-106. Repealed. Sec. 2, Ch. 38, L. 1985.

History: En. Sec. 6, Ch. 309, L. 1981.

18-11-107. Filing of agreement. (1) Within 60 days after approval by the attorney general and signature of the parties, an agreement made pursuant to this chapter must be filed with:

(a) the regional office of the bureau of Indian affairs of the United States department of the interior having trust responsibility for the tribe that is party to the agreement or its successor agency;

(b) each county clerk and recorder of each county where the principal office of one of the parties to the agreement is located, except as provided in (2) of this section;

(c) the secretary of state; and

(d) the affected tribal government.

(2) If a party to the agreement is a state agency, the agreement need not be filed with the county clerk and recorder for Lewis and Clark County.

History: En. Sec. 7, Ch. 309, L. 1981; amd. Sec. 1, Ch. 38, L. 1985; amd. Sec. 1, Ch. 54, L. 2001.

18-11-108. Revocation of agreement. An agreement made pursuant to this chapter is subject to revocation by any party upon 6 months' notice to the other unless a different notice period of time is provided for within the agreement. No agreement may provide for a notice period for revocation in excess of 5 years.

History: En. Sec. 8, Ch. 309, L. 1981.

18-11-109. Authorization to appropriate funds for purpose of agreement. Any public agency entering into an agreement pursuant to this chapter may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefor as is within its legal power to furnish.

History: En. Sec. 9, Ch. 309, L. 1981.

Cross-References

Statutory appropriations, Title 17, ch. 7, part 5.

18-11-110. Specific limitations on agreements. Nothing in this chapter may be construed to authorize an agreement that:

(1) is not permitted by federal law. However, the parties are encouraged to deal with substantive matters and enforcement matters that can be mutually agreed upon, but no such agreement may be considered to affect the underlying jurisdictional authority of any party unless expressly authorized by congress.

(2) authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country; or

(3) authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.

History: En. Sec. 10, Ch. 309, L. 1981; amd. Sec. 1, Ch. 81, L. 1985.

18-11-111. Repealed. Sec. 2, Ch. 54, L. 2001.

History: En. Sec. 11, Ch. 309, L. 1981.

18-11-112. Revenue account — administrative account — distribution of revenue. (1) The revenue collected by the state, a public agency, or a tribal government under a state-tribal cooperative agreement and the administrative expenses, if any, deducted under subsection (2) from the total revenue collected must be deposited in separate special revenue accounts.

(2) Administrative expenses deducted by the state, a public agency, or a tribal government for collection of revenue may not exceed the actual cost of collecting the revenue on a reservation or 5%, whichever is less. Money from an administrative account may be expended only for the purpose of administering the tax or fee imposed under the state-tribal cooperative agreement or for paying the costs incurred in terminating the agreement.

(3) Except for administrative expenses, if any, deducted under subsection (2), revenue collected by a public agency under a state-tribal agreement must be deposited in separate special revenue accounts and must be disbursed as provided for in the agreement. If a public agency that is a party to an agreement is a local government, the agreement must provide for the disposition of revenue.

(4) Money deposited in a state administrative expenses account and in a state special revenue account is statutorily appropriated, as provided in 17-7-502, to the department or public agency that is a party to a state-tribal cooperative agreement under 18-11-103, for the purpose of paying administrative expenses or paying to a tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or refunded pursuant to a state-tribal cooperative agreement, each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory, public agency ordinance, or tribal ordinance distribution formula. For distribution of the remainder, the state statutory, public agency, or tribal distribution formula must apply as if the amount remaining after each party to the agreement receives its share were the total revenue collected from the tax or license or permit fee.

History: **En. Sec. 4, Ch. 625, L. 1993.**

18-11-113 through 18-11-120 reserved.

18-11-121. Authorization to become contracting employer in public employees' retirement system. A separate legal entity created and authorized under this part that manages or operates an irrigation project may contract with the public employees' retirement board as provided in Title 19, chapter 3, part 2, to become a contracting employer in the public employees' retirement system.

History: **En. Sec. 1, Ch. 404, L. 2011.**